

MISSISSIPPI DIVISION OF MEDICAID

Eligibility Policy and Procedures Manual

304.05 MEDICAID QUALIFYING TRUSTS (MQT)

The provisions in this section are applicable to any trust or similar legal device established on or after March 1, 1987, through August 10, 1993, that meet MQT criteria. If MQT criteria are not met, defer to Standard Trust policy.

A Medicaid Qualifying Trust is a trust or similar device, which:

- Is established (other than by will) with the applicant/recipient's own funds, by the applicant/recipient (or spouse),
- Names the applicant/recipient as the trust beneficiary for all or part of the payments from the trust, and
- Permits the trustee to exercise any discretion with respect to the distribution of such payments to the individual.

The MQT provision is applied without regard to whether or not:

- The MQT is revocable or irrevocable, or
- The MQT is established for purposes other than to qualify for Medicaid, or
- The discretion of the trustee is actually exercised.

NOTE: This provision also applies to SSI recipients. Refer to Special Handling of SSI cases for more discussion.

304.05.01 MQT POLICY PRINCIPLES

In determining whether an MQT exists, look for 3 main components:

1. The grantor is the Medicaid client or his representative (e.g., spouse, parent, guardian, conservator or anyone holding power of attorney for the client);
2. The trust was established with property belonging to the client; and
3. The client is at least one of the beneficiaries of the trust.

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MQT Policy Principles (Continued)

In addition, the following principles must be considered:

- The client is considered the grantor even if the trust was established pursuant to court order issued upon the petition of the client or his representative. In this situation, the court acts as the client's agent in establishing the trust.
- It is not necessary that there be a trust agreement, as defined by state law, for MQT trust policies to apply. MQT trust policies apply to **"similar legal devices"** or arrangements having all of the characteristics of an MQT, except there is no actual trust instrument. Examples are:
 - Escrow accounts;
 - Savings accounts;
 - Pension funds;
 - Annuities;
 - Investment accounts;
 - Other accounts managed by agent with fiduciary obligations, such as conservatorships or guardianships.
- The MQT provision does not apply to trust agreements established by will. These trusts are treated as standard trusts. However, if a client inherits resources and in turn establishes a trust, the MQT provision could apply.

304.05.02. RESOURCE TREATMENT OF MQT's

Each trust document must be reviewed individually to determine the resource treatment of the trust, but in general use the following criteria to determine resource treatment:

- **Revocable MQT** - The entire corpus of the trust is an available resource to the client. Resources comprising the corpus are subject to individual resource exclusions, if applicable, since the client can access these resources.

An exception is exclusion of the home for institutionalized recipients. Home property loses its excluded status when transferred into an MQT.