

MISSISSIPPI DIVISION OF MEDICAID

Eligibility Policy and Procedures Manual

304.06 STANDARD TRUSTS

Standard trust policy is applicable to trusts or conservatorships established prior to March 1, 1987, and/or trusts that do not meet the criteria of OBRA-93 or MQT trusts, regardless of the date established. In addition, testamentary trusts where the Medicaid client is the beneficiary are also standard trusts.

Whether the trust is counted as a resource depends on the client's role as beneficiary or trustee and the specific terms of the trust. In all situations listed below a copy of the trust agreement or court documents must be obtained for review:

304.06.01 MEDICAID CLIENT IS TRUSTEE

Generally, a person appointed as a trustee cannot use any of the funds in the trust for his/her own benefit. Thus, an individual can be a trustee of a valuable trust and not be able to receive money from the trust since he/she has no access to the funds for personal use. When the trustee has no access to the funds for personal use, the trust is not a resource to the client who is the trustee.

However, under certain circumstances the trust is a countable resource to the client who is the trustee. Count the trust as a resource, regardless of whose funds were originally deposited into the trust, if the client:

- Is the trustee, and
- Has the legal ability to revoke the trust and
- Use the money for his own benefit.

Also, consider the trust a resource to the client if either the client or living-with spouse (eligible or ineligible) is the person who created the trust and has the right to dissolve it and use the funds for his own benefit. Where trust principal is considered a resource to the trustee, count the total value of the trust and count any interest or distributions as a resource the month following the month of receipt. Do not count as income any withdrawals made from the trust by the trustee since the funds have already been counted as a resource.