

Title 23: Division of Medicaid

Part 103: Resources

Part 103 Chapter 5: Trust Provisions

Rule 5.16: Special Needs Trust (SNT) and Pooled Trust Guidelines and Restrictions

The MS Division of Medicaid has established guidelines and restrictions regarding payments and distributions from a SNT or pooled trust that must be followed in order for either type of trust to meet or continue to meet the conditions for exception. Medicaid eligibility of the disabled individual may be affected if these guidelines are not followed.

- A. Payments for medical expenses that are not paid by Medicaid are allowed to be made from the trust. One exception is the cost differential between that of a private room and a semi-private room in an institutional setting is not an allowable expense.
- B. Gifts must not be made from either type of trust.
- C. Compensation paid to a family member from either type of trust for services rendered as a trustee must be reasonable under the circumstances.
- D. Compensation paid to a family member from either type of trust for services rendered as a caretaker to the beneficiary must be reasonable under the circumstances and not exceed rates charged by agencies in the geographic area for the same or similar services. For a parent, the services must be over and above normal parental responsibilities.
- E. The purchase of residential real property by the trust is allowable if the residence serves as the beneficiary's place of residence. The trust must be the owner of any real property purchased by the trust. Additions or improvements to existing property owned by another individual will be allowed if made for the benefit of the beneficiary. The trust must have a lien on the property for the cost of the additions or improvements.
- F. The purchase of a vehicle by the trust is allowed only if it is the only household vehicle or is specially equipped to allow the beneficiary to operate the vehicle or to be transported in the vehicle. If the vehicle will be used for other than the beneficiary, all expenses relating to the vehicle must be prorated between the trust and anyone other than the beneficiary that uses the vehicle. If the vehicle is placed in the name of anyone other than the beneficiary, the trust must have a lien on the vehicle title.
- G. Payments for vacations and other non-medical trips for the beneficiary must be reasonable under the circumstances and considering the size of the trust.
- H. Payments for recreational opportunities, family visits or visits to friends for the beneficiary must be reasonable under the circumstances. Payments for family members to visit the

beneficiary may be made if the visit is for purposes of ensuring the safety and well-being of the beneficiary.

- I. Payments for non-medical expenses such as radios, televisions, audio or video equipment, computer equipment or other electronic devices and/or equipment must be made for the primary benefit of the beneficiary and reasonable under the circumstances and considering the size of the trust.
- J. The pre-need payment of burial expenses, the purchase of pre-need burial contracts or the payment of burial insurance premiums are allowable, but if such arrangements have not been made prior to the passing of the beneficiary, they must not be paid until after reimbursement has been made to Medicaid.
- K. Payments for the following items will produce In Kind Support and Maintenance (ISM) for the beneficiary: food, rent, mortgage payments (including property insurance required by the mortgage holder), real property taxes (less any tax rebate/credit), heating fuel, gas electricity, water, sewer, garbage removal. ISM is considered income and may affect eligibility for Medicaid-only beneficiaries or reduce SSI benefits.
- L. Distributions from either type of trust directly to the beneficiary or to the beneficiary's bank account will be considered income to the beneficiary in the month in which the distribution is made. Direct distributions must be reported and may result in loss of coverage for Medicaid-only beneficiaries or reduction and possible loss of SSI benefits.

Source: 42 U.S.C. §1396p(d); Miss. Code Ann. § 43-13-121.

History: Revised eff. 06/01/2024; Revised eff. 11/01/2014.

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- B. Gifts must not be made from either type of trust.
- C. Compensation ~~must not be~~ paid to a family member from either type of trust for services rendered as a trustee must be reasonable under the circumstances.
- D. Compensation ~~must not be~~ paid to a family member from either type of trust for services rendered as a caretaker to the ~~disabled beneficiary~~ must be reasonable under the circumstances and not exceed rates charged by agencies in the geographic area for the same or similar services. For a parent, the services must be over and above normal parental responsibilities.
- E. The purchase of residential real property by the trust is allowable ~~only~~ if the residence serves as the beneficiary's place of residence. The trust must be the owner of any real property purchased by the trust. Additions or improvements to existing property owned by another individual will be allowed if made for the benefit of the beneficiary. The trust must have a lien on the property for the cost of the additions or improvements. ~~is specially equipped to meet the needs of the disabled beneficiary and the property serves as the disabled beneficiary's place of residence. Examples of "specially equipped" are: wider doorways to accommodate wheelchairs, ramps, handrails, etc. If the disabled beneficiary does not require a home to be specially equipped, the purchase of residential real property will not be allowed as an expense from either type of trust. The trust must be the owner of any real property purchased by the trust. Additions or improvements to an existing property will be allowed only if needed to accommodate the special needs of the disabled beneficiary.~~
- F. ~~The payment of ad valorem taxes and/or insurance premiums on real property will be allowed only if the property has been specially equipped to meet the needs of the disabled beneficiary. Payment of utility expenses is considered as a part of maintenance and support and is not a special need; therefore, payment of utilities by either type of trust is not allowed.~~

F. G.—The purchase of a vehicle by the trust is allowed only if it is the only household vehicle or is specially equipped to allow the disabled beneficiary to operate the vehicle or to be transported in the vehicle; If the vehicle will be used for other than the beneficiary, all expenses relating to the vehicle must be prorated between the trust and anyone other than the beneficiary that uses the vehicle. If the vehicle is placed in the name of anyone other than the beneficiary, the trust must have a lien on the vehicle title. otherwise the purchase of a vehicle by either type of trust is not allowed. If the purchase of a non specially equipped vehicle is considered a medical necessity, the MS Division of Medicaid will take into consideration an undue hardship request for the purchase of a vehicle prior to the purchase of such a vehicle. The payment for tags, insurance and repairs on a vehicle will be allowed only if the vehicle is specially equipped. Payments for gasoline and other operating expenses are not considered special needs but are considered as a part of basic maintenance and support. The trust must not be the owner of any vehicle that is purchased by funds from either type of trust.

G. H. Payments for vacations and other non-medical trips for the beneficiary must be reasonable under the circumstances and considering the size of the trust. not exceed \$2,000 during any calendar year.

H. I. Payments for recreational opportunities, family visits or visits to friends for the beneficiary must be reasonable under the circumstances. Payments for family members to visit the beneficiary may be made if the visit is for purposes of ensuring the safety and well-being of the beneficiary. must not exceed \$2,000 during any calendar year.

I. J. Payments for non-medical expenses such as radios, televisions, audio or video equipment, computer equipment or other electronic devices and/or equipment must be made for the primary benefit of the beneficiary and reasonable under the circumstances and considering the size of the trust. are limited to one purchase of each type every five (5) years and the total expenditures for these types of expenses must not exceed \$5,000 during any calendar year.

J. K. The pre-need payment of burial expenses, the purchase of pre-need burial contracts or the payment of burial insurance premiums are allowable, but if such arrangements have not been made prior to the passing of the beneficiary, they must not be paid until after reimbursement has been made to Medicaid. not considered special needs and are not to be made from either type of trust until after the MS Division of Medicaid has been reimbursed upon the termination of the trust.

K. L. Payments for the following items will produce In Kind Support and Maintenance (ISM) for the beneficiary: food, clothing, rent, mortgage payments (including property insurance required by the mortgage holder), real property taxes (less any tax rebate/credit), heating fuel, gas electricity, water, sewer, garbage removal. ISM is considered income and may affect eligibility for Medicaid-only beneficiaries or reduce SSI benefits. furniture, appliances and household help are considered to be items of basic maintenance and support and not special needs. Such payments must not be made from either type of trust.

L. M. Distributions from either type of trust directly to the disabled beneficiary or to the beneficiary's bank account will be considered income to the disabled beneficiary in the month

in which the distribution is made. Direct distributions must be reported and may result -in loss of coverage for Medicaid-only beneficiaries or reduction and possible loss of SSI benefits.

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