

TO: Local District Commissioners, Medicaid Directors

FROM: Betty Rice, Director
Division of Consumer and Local District Relations

SUBJECT: Uniform Gifts to Minors Accounts

EFFECTIVE DATE: Immediately

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This message is to advise social services districts of the treatment of custodial accounts created for the benefit of minors by parents or other persons under the New York State Uniform Gifts to Minors Act (UGMA) and the Uniform Transfers to Minors Act (UTMA). Transfers to such accounts are irrevocable. The custodian may provide to the minor, or expend for the minor's benefit, as much of the custodial property as the custodian considers advisable for the use and benefit of the minor. However, the minor has no entitlement to the custodial property until he or she becomes an adult, a term which is defined differently under the UGMA and the UTMA.

The UGMA was repealed in 1997, and the provisions of the UTMA govern accounts established under either statute. The UTMA generally requires the custodian to transfer the custodial property to the minor when the minor reaches the age of 21 (unless the person creating the account, in designating the custodian, elects the age of 18 instead). However, with respect to accounts created before January 1, 1997 (i.e., accounts created when the UGMA was in effect), including deposits made to such accounts on or after January 1, 1997, the custodian is required to turn over the custodial property when the minor reaches the age of 18.

In determining the Medicaid eligibility of an SSI-related minor, social services districts must consider funds in UGMA/UTMA accounts to be unavailable. Disbursements from a UGMA/UTMA account to pay for goods and services on behalf of the minor will be counted as income. When the minor reaches the age of 21 (or 18, as the case may be), the custodial property becomes available. It is treated as unearned income in the month in which the minor reaches such age, and as a resource thereafter.

In determining the Medicaid eligibility of a person in the Low Income Families (LIF) category or of an ADC-related medically needy person, funds in a UGMA/UTMA account are counted as available resources if the custodian is a parent who is part of the Medicaid household. In cases where a parent is in the household but is not the custodian of the UGMA/UTMA account, a local district may require the parent to contact the custodian and inquire if the account is currently available to the child and assign the right to pursue the account as a resource. If a parent is not in the household, the funds in the account are considered to be unavailable. A previously inaccessible UGMA/UTMA account becomes a resource in the month in which the minor reaches the age of 21 (or 18, as the case may be).

This information will be included in a forthcoming administrative directive.