

RESOURCES **TRUST FUNDS**

NOTE: Although exception trusts created in accordance with the criteria set forth above are exempt as resources in the eligibility determination process regardless of the disabled individual's age, for purposes of the transfer provisions, any additions to the trust after the individual becomes 65 years of age are subject to applicable transfer penalties.

Amounts paid out of the pooled trust for the benefit of the disabled individual subsequent to the transfer and prior to the Medicaid eligibility determination for nursing home care must be used to offset all or a portion of the assets transferred to the trust. It is the responsibility of the disabled individual to provide proof of the amounts that the non-profit association which managed the pooled trust paid for expenses to meet the needs of the individual during this period. (See **RESOURCES TRANSFER OF ASSETS ALL CATEGORIES**).

It is the responsibility of the trustee of an exception trust to ensure that the funds are expended for the benefit of the disabled person. In some cases, this disbursement of funds may indirectly benefit someone other than the beneficiary. Such disbursements are valid, as long as the primary benefit accrues to the disabled person. For example, payment of travel expenses for a companion to a disabled person going on vacation may be appropriate. Also, the abilities and capabilities of the person are taken into account. The purchase of sophisticated computer equipment to assist a physically disabled person to communicate would be considered appropriate, while purchase of the same type of equipment for an individual who could not be trained to use it, would not.

- c. Irrevocable Trust – An irrevocable trust is a trust created by an individual, over which the individual may or may not be able to exercise some control, but which may not be cancelled under any circumstances.

When an irrevocable trust is established by an A/R or the A/R's spouse on or after August 11, 1993, any portion of the trust principal, and income generated by the trust principal, from which no payments may be made to or for the benefit of

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the A/R or the A/R's spouse, is considered to be an asset transferred for less than fair market value for purposes of the transfer of assets rule (See **RESOURCES TRANSFER OF ASSETS ALL CATEGORIES**).

1. Payments made from the trust to or for the benefit of the A/R or the A/R's spouse are considered available income in the month received. Any portion of the principal of the trust, or the income generated from the trust, which can be paid to or for the benefit of the A/R or the A/R's spouse, is considered an available resource. If the language of the trust specifies that the money can be made available for a specific event, that amount is considered an available resource, whether or not that event has occurred.
 2. Payments which are made from trust assets considered available to the A/R or the A/R's spouse, as described in paragraph (2) above, and which are not made to or for the benefit of the A/R or the A/R's spouse, are considered assets transferred for less than fair market value for purposes of the transfer of assets rule (See **RESOURCES TRANSFER OF ASSETS ALL CATEGORIES**).
- d. Revocable Trust – A revocable trust is a trust created by an individual, which the individual has the right to revoke or terminate.

When a revocable trust is established by an A/R or the A/R's spouse, the entire value of the trust is considered an available resource.

1. All payments made from the trust to or for the benefit of the A/R or the A/R's spouse are considered available income in the month received.
 2. All payments made from the trust fund to a person other than the A/R or the A/R's spouse are considered to be assets transferred for less than fair market value for purposes of the transfer of assets rule (See **RESOURCES TRANSFER OF ASSETS ALL CATEGORIES**).
- e. Supplemental Needs Trust (SNT) – A supplemental