

REFERENCE

TRUST FUNDS

| Situation | Supplemental Needs Trusts | OBRA 1993 Exception Trusts | |
|---|--|--|---|
| | | Individual Trusts | Pooled Trusts |
| Legal Reference | | Social Security Act Section 1917(d)(4)A) | Social Security Act Section 1917(d)(4)(C) |
| Beneficiary's Age | Any age | Under Age 65* | Any age* |
| Disability | Severe and chronic or persistent impairment | In receipt of SSI Disability, SSA Disability, or certified disabled either when the trust was established or retroactively as of the date the trust was established. | Same as for an individual trust |
| Whose assets are used to establish the trust? | Assets of anybody | Must be the assets of the individual. | May be the assets of the individual. |
| Who establishes the trust? | By anyone other than the A/R. | Parent, grandparent, legal guardian of individual, or a court. | The individual, grandparent, legal guardian of the individual, or a court open account. |
| Medicaid repayment requirement. | If Exceptions Trust, Department recovers all amounts up to the MA paid amount. | The Department recovers all amounts up to the MA paid amount. | The Department recovers all amounts not retained by the not-for-profit organization up to the MA paid amount. |
| Miscellaneous unique requirements | | | Established and managed by a nonprofit association. |

* Transfer penalties apply for transfers of assets to trusts once the person is 65 years of age or older for both individual and pooled trusts.