

Special Needs Trusts – Pooled Special Needs Trust Update

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Special Needs Trusts

- To benefit individuals with disabilities.
- Maintain eligibility for public assistance programs.
- Enhance quality of life.

Eligibility for SSI and Medicaid Programs

- Level of care (medical need)
- Resource test and cap levels on assets and income
- Penalty periods if you transfer
- Traditional trusts count as an available resource

SSI-Related Medicaid Coverage Groups
Financial Eligibility Standards: July 1, 2021

TYPES OF COVERAGE GROUPS (eff 01/01/21)		INCOME LIMIT	ASSET LIMIT
ICP/HCBS/HOSPICE-Individual (I)-300% Federal Benefit Rate (FBR)		\$2,382	\$2,000
ICP/HCBS/HOSPICE-Couple (C)- 300% FBR		\$4,764	\$3,000
HCBS/Working People w/Disabilities (WPwD) (I)-550% FBR		\$4,367	\$13,000
HCBS/Working People w/Disabilities (WPwD) (C)- 550% FBR		\$8,734	\$24,000
MEDS-AD/ICP-MEDS(I)-88% Federal Poverty Level (FPL)		\$945	\$5,000
MEDS-AD/ICP-MEDS(C)-88% FPL		\$1,278	
Medically Needy, MNIL-(I)-No income limit (subtract from gross income)		\$180	
Medically Needy, MNIL-(C)-No income limit (subtract from gross income)		\$241	\$6,000
TYPES OF COVERAGE GROUPS (eff 04/01/21) <small>A \$20 General Income Disregard applies to these coverage groups</small>		INCOME LIMIT	ASSET LIMIT
Qualified Medicare Beneficiaries (QMB) (I) –100% FPL		\$1,074	\$7,970 \$11,960
Qualified Medicare Beneficiaries (QMB) (C)–100% FPL		\$1,452	
Specified Low-Income Medicare Beneficiary (SLMB) (I)-120% FPL		\$1,288	
Specified Low-Income Medicare Beneficiary (SLMB) (C)-120% FPL		\$1,742	
Qualifying Individual (QI-1) (I)-135% FPL		\$1,449	
Qualifying Individual (QI-1) (C)-135% FPL		\$1,960	\$5,000 \$6,000
Working Disabled (WD) (I)- 200% FPL		\$2,147	
Working Disabled (WD) (C)- 200% FPL		\$2,904	
Low Income Subsidy (LIS) Extra Help-(I)-150% FPL		\$1,610	\$13,290
Low Income Subsidy (LIS) Extra Help-(C)-150% FPL		\$2,178	\$26,520
Medicare Part A Premium (free for most)		\$471	N/A
Medicare Part B Premium		\$149	
Personal Needs Allowance (PNA) (eff 01/01/21)		Spousal Impoverishment (eff 07/01/21)	
NH-ICP/HCBS/HOSPICE/PACE	\$130 (I)	MMMNA CSMIA (eff 1/21) Excess Shelter Standard (eff 10/20) CSRA Home Equity Interest Limit Transfer of Asset Divisor (eff 03/21)	\$2,178
	\$260 (C)		\$3,260
HCBS/WPwD	\$4,367 (I)		\$654
	\$8,734 (C)		\$130,380
Community Hospice	\$1,074 (I) \$1,452 (C)		\$603,000 \$9,703
ALF-PACE / SMMC-HCBS	R&B+ 20% FPL (\$215 (I)/\$430 (C))	Community Hospice Allocations:	
Community/iBudget	\$2,382 (I)	Spouse only = FBR (\$794)	
	\$4,764 (C)	Spouse + Dependents or Dependents Only = CNS Standard	
Maintenance Needs Standards / Other (eff 01/01/21)		Abbreviations Key	
Standard Disregard = \$20		Institutional Care Program (ICP)	
Earned Income Disregard = \$65 + ½		Home and Community Based Services (HCBS)	
Student Earned Income Disregard = \$1,930 monthly, maximum \$7,770 for calendar year		The Program of All-Inclusive Care for the Elderly (PACE)	
Spouse Deeming: ½ FBR = \$397		Statewide Medicaid Managed Care (SMMC)	
Child Allocation = \$397/child (Difference between the couple and single FBR)		Community Spouse Maximum Income Allowance (CSMIA)	
Disability Substantial Gainful Activity (SGA) = \$1,310 <i>non-blind</i> -\$2,190 <i>blind</i>		Community Spouse Resource Allowance (CSRA)	
		Assisted Living Facility (ALF)	

Special Needs Trusts

- Self-Settled – with beneficiary's own funds
- Third Party – someone other than the beneficiary or spouse

Third Party Special Needs Trusts

- **Set up by a family member or friend for a person with disabilities**
- **Can be done by a spouse if done in a Will (only after death)**
- **Generally a specific trust for each beneficiary**
- **No Medicaid pay-back – can go to other family members**

Self Settled Special Needs Trusts

Must be Irrevocable

Must be the funds of the person
with a disability

- Inheritance
- Personal Injury Award
- Earnings and Savings

Self Settled Special Needs Trusts

42 U.S.C. §1396 p(d)(4) (Social Security Act)

(d)(4)(A) – Under Age 65 Disability SNT

(d)(4)(B) – Qualified Income SNT

(d)(4)(C) – Pooled SNT

Pooled Trusts

- **By combining funds with others similarly situated (pooling), costs can be lowered and “minimum fees” can be avoided**
- **Some pooled trusts have one-time enrollment fees as low as \$500**
- **Many pooled trusts do not have minimum monthly or annual fees**
- **Non-profit organizations also administer trusts**
- **Guardian Pooled Trust – Guardiantrusts.org**

Pooled Trusts

- **Time Line of what's been going on in Florida with Pooled Trusts:**
 - **2008 – CMS Memo to States**
 - **4/12 – DCF publishes change to website**
 - **4/16 – Public Records Request**
 - **4/19 – First Call with DCF Chief of Staff**
 - **4/19 – ELS notices DCF with 30 day notice of unpromulgated rule**
 - **4/30 – Publication of Workshop notice for 5/20**
 - **5/4 – Email from DCF putting change on hold**

Pooled Trusts

- **Minnesota Supreme Court Case – Pfoser – January 20, 2021**

Social Security Opinions:

- **Maryland/Virginia – May 4, 2021**
- **California – June 16, 2021**

Pooled Trusts

- **Fair Market Value: (Actual Value?)**
- 1640.0407 Definition of Actual Value (MSSI, SFP) For assets that are in cash, or payable in cash on demand, the actual value is the cash value. For other forms of assets, the actual value is the fair market value (the amount of cash that could be received by selling or converting the asset).

Pooled Trusts

➤ Fair Market Value: POMS

- FMV is the current market value (CMV) of a resource at the time the resource transfers. The CMV of a resource is the going price that it can be reasonably expected to sell on the open market in the geographic area involved.

Thank You!

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