



COLORADO

Department of Health Care
Policy & Financing

INSTRUCTIONS FOR COMPLETING THE DECLARATION OF INCOME TRUST FORM

An Income Trust is used solely for those Medicaid applicants or clients whose unearned income amount exceeds an amount defined in law. This amount is adjusted each year. The client's unearned income is placed into the trust, and distributions from the trust are made to the client's nursing facility or to medical assistance programs such as HCBS (Home and Community Based Services) or PACE (Program of All-inclusive Care for the Elderly).

The Medicaid applicant may establish the trust if he/she is capable of doing so, or a guardian, conservator, or agent under a power of attorney. If the applicant is not capable of managing his or her own finances and no guardian, conservator or agent had already been appointed, court approval is required to authorize a responsible guardian or conservator.

Definitions:

Settlor. The settlor is the person who establishes the trust. This person may be the Medicaid applicant, if he or she is capable of understanding and signing legal documents. The settlor may also be a guardian, conservator or agent under a power of attorney. All settlors other than the Medicaid applicant must provide proof of appointment such as a Power of Attorney document or documentation of a court-approved Guardianship or Conservatorship.

Trustee. The person named by the settlor to manage the monies held in the trust. This is the person responsible for making the patient payment for care and maintaining and tracking a separate bank account where the trust monies are deposited. A settlor may name him/her-self as the trustee, as long as a successor trustee is also named, or may name another individual or business entity to serve as trustee.

Successor Trustee. The person who assumes control of the trust after the initial trustee dies, resigns, or becomes unable to continue with his/her responsibilities. This person is not required to sign the income trust document, but it is advised that he or she is informed of his/her possible future responsibility in order to avoid any disruptions in the trust administration or the client's eligibility. It is highly recommended that a successor trustee is named at the time the trust is established.

Gross Monthly Unearned Income means the gross amount received in cash each month by the client from unearned income. Unearned incomes include, but are not limited to:

- a) Private pensions

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- b) Social Security benefits
- c) Workers' Compensation payments
- d) Disability benefits
- e) Unemployment insurance payments
- f) Veterans benefits (excluding payments for Aid & Attendance)
- g) Alimony and support payments
- h) Interest, dividends and certain royalties on countable resources
- i) Annuity payments, including short-term annuities. (Please provide documentation of the start-date and end-date of any annuity payments.)

Responsibilities of a trustee:

I. If the trust is used for nursing facility eligibility, the following instructions apply:

As a trustee, it is your responsibility to pay to the nursing facility the "patient payment" each month. The technician at the county eligibility site will inform you of the exact amount. Most often, it is the total amount of gross income received each month less any allowable deductions, such as a personal needs allowance, a trust maintenance fee allowance or any other allowances as determined by the county technician.

Keep the trust bank account separate from any other accounts or funds. Do not write any checks from the account for any purpose other than the payment to the nursing facility, the personal needs allowance, and any deductions approved by the county department of social/human services.

It is not necessary to change the name of the payee on the pension or social security checks from the Medicaid recipient to the name of the trust. In fact, many pension plans and social security may not allow you to do so. The income may be paid directly to the nursing facility if the facility is named as the representative payee for the income.

The trust must automatically terminate upon the death of the Medicaid recipient, or prior to death, if the individual is no longer a Medicaid recipient in Colorado. When the trust terminates, any remaining funds in the trust account must be paid to the Colorado Department of Health Care Policy and Financing, to reimburse Medicaid for the cost of care. Please include with your trust check an accounting of income received and payments made out of the trust account. This need not be professionally done. It may be a check register if it is clear and legible.

II. If the trust is used to establish income eligibility for HCBS, including PACE, the following instructions apply:

Each month the Medicaid client may retain a certain amount of the total gross income for his or her own use. This amount changes each year. The county technician will inform you of that amount. Any monthly gross income over that amount must be retained in the trust bank account and may be used only to reimburse Medicaid when the trust terminates.

If the Medicaid client is married, it may be allowable to use some of the trust as income for the non-Medicaid spouse. The county technician will inform you if this is allowable and the amount which is payable to the non-Medicaid spouse.

The county technician may also grant a trust maintenance fee allowance for expenses to maintain the existence of the trust, such as bank charges, if such expenses are expected to be incurred by the trust.

The trust must automatically terminate upon the death of the Medicaid recipient, or prior to death, if the individual is no longer a Medicaid recipient in Colorado. When the trust terminates, any remaining funds in the trust account must be paid to the Colorado Department of Health Care Policy and Financing, to reimburse Medicaid for the cost of care. This includes any amount remaining from the trust maintenance fee allowance, if an allowance was granted. Please include with your trust check an accounting of income received and payments made out of the trust account. This need not be professionally done. It may be a check register if it is clear and legible.