



COMBINED MEDICAID 404-4

Asset Transfers to Trusts-On or After August 11, 1993

Supersedes: MA 404-5 (05/01/00)

Reference: OBRA '93; ARM 37.82.417; 20 CFR 416.1246

Overview: ABD and ACA: An uncompensated asset transfer must be evaluated when any client applying for or receiving institutionalized or HCBS/waiver services transfers any asset, in whole or part to a trust on or after 8/11/93. Any portion of a trust that is not payable to the client is treated as an asset transfer.

When a trust is established with resources belonging to both the client and to another person, only the portion the client transferred is reviewed for an uncompensated asset transfer. When a client establishes a **revocable trust**, any portion disbursed to anyone other than the client, or to anyone for the benefit of the client is considered an uncompensated asset transfer. Also, treat an **irrevocable trust** that cannot be disbursed to the client or on the client's behalf as an uncompensated asset transfer.

ASSET TRANSFER TO REVOCABLE TRUST:

When assets are transferred to a revocable trust:

1. The trust principal is a countable asset;
2. Trust payments to or for the client's benefit are countable income; and
3. Trust payments to or for another's benefit are an uncompensated asset transfer.

ASSET TRANSFER TO IRREVOCABLE TRUST:

Any portion of the trust principal or trust-generated income that is not payable to the client is considered an uncompensated asset transfer. The asset transfer date is the later of the date:

1. The trust was established; or
2. Payments to the client stopped

When establishing the portion that cannot be paid to the client, the portion's value is not reduced by any payments made to someone other than the client after either the date the trust was established or the day payments to the client stopped, whichever is later.

Additional assets transferred to the trust after either the date the trust was established or date payments to the client stopped, whichever is later, are treated as new uncompensated asset transfers.

Effective Date: July 01, 2016