



402-3 Trust Funds

Supersedes:	TANF 402-3, (7/01/02)
References:	ARM 37.78.102 and .401
Overview:	<p><u>GENERAL RULE</u>--All trusts must be evaluated as to their availability for the household's support and maintenance.</p> <p>Property held in trust or owned by a corporation is not owned by the filing/assistance unit. No exclusions (i.e., income producing, home and surrounding property, vehicle with highest equity value, etc.) listed in sections TANF 402-1 and 403-1 can be applied to either trust or corporate property, regardless of whether or not any member of the filing/assistance unit is a trust beneficiary or corporate shareholder.</p>
DEFINITIONS	<p>Beneficiary: The beneficiary is the individual designated in the trust instrument as benefitting in some way from the trust. The beneficiary can be the grantor or another individual.</p> <p>Grantor: The grantor is the entity who creates the trust. The grantor may be any person, including a court or administrative body, with legal authority to act on behalf of the individual or any person, including a court or administrative body, acting at the direction or request of the individual.</p> <p>Trust: A trust is any arrangement in which a grantor transfers property (real or personal) with the intention that it be held, managed, or administered by a trustee(s) for the benefit of the grantor or other beneficiary(ies).</p> <p>Trusts are managed by individuals or entities with fiduciary obligations and may include (but are not limited to):</p> <ol style="list-style-type: none"> 1. escrow accounts; 2. investment accounts; 3. future medical care accounts; and 4. other similar arrangements. <p>Trustee: A trustee is any individual(s) or entity (e.g., an insurance company or bank) that manages a trust and has fiduciary responsibilities.</p>
SUPPORT AGREEMENTS	<p>If any member of the filing unit has a written agreement which states that AGREEMENTS another person, entity or corporation agrees to support the household or a member of the household (e.g., family farm corporation, Masonic agreement or by-laws of a Hutterite Colony), the agreement must be evaluated to determine if it meets the legal definition of a trust.</p> <p>If the agreement is determined to meet the trust definition, it must be evaluated for</p>

	<p>accessibility. If the trust is considered to be accessible, the value of all the resources held by the trust must be counted in determining the household's/individual's resource eligibility. It will be necessary to request verification of all resources held by the trust.</p> <p>NOTE: All support agreements are to be evaluated by Central Office Policy Specialists and Department Legal staff.</p>
ACCESSABILITY	<p>The trust may be designated as revocable or irrevocable.</p> <p>A <u>REVOCABLE TRUST</u> is a trust that can be terminated by the grantor. It is considered an accessible resource. For example, if the trust document states the trust can only be modified or terminated by a court, it is considered to be available since the grantor/representative can petition the court to terminate the trust.</p> <p>A trust which is called irrevocable but which terminates if the grantor takes some action is also considered a revocable trust.</p> <p>When the grantor, beneficiary, or trustee has unrestricted access to a trust, regardless of the stated use of the funds, the trust principal is treated as a countable resource.</p>
TRUST INCOME	<p>Dividends, interest, rents and other income generated by a trust fund, unless otherwise excluded, that can be paid to the beneficiary or reinvested in the trust are countable income in the month they become available; regardless of whether the income is actually paid out to the beneficiary.</p> <p>Monies withdrawn from the principal of an inaccessible trust fund, unless otherwise excluded, are countable income in the month received;</p> <p>Monies withdrawn from the principal of an accessible trust fund are excluded as income because an accessible trust fund is a countable resource. Money cannot be considered income and resource in the same month.</p> <p>Monies received and used for the care and maintenance of a third party beneficiary (adult or child) who is not a member of the trustee's filing unit are <u>excluded</u> as income for the trustee.</p>
Date Revised	July 1, 2003