

### **633C.3 Disposition of medical assistance income trusts.**

1. Regardless of the terms of a medical assistance income trust, if the beneficiary's total monthly income is less than the average statewide charge for nursing facility services to a private pay resident of a nursing facility, then, during the life of the beneficiary, any property received or held by the trust shall be expended only as follows, as applicable, and in the following order of priority:

*a.* A reasonable amount may be paid or set aside each month for necessary expenses of the trust, not to exceed ten dollars per month without court approval.

*b.* From the remaining principal or income of the trust, amounts may be paid for expenses that qualify as required deductions from income pursuant to 42 C.F.R. § 435.725(c) or 435.726(c) for purposes of determining the amount by which medical assistance payments under chapter 249A for institutional services or for home and community-based services provided under a federal waiver will be reduced based on the beneficiary's income.

*c.* If the beneficiary is an institutionalized individual or receiving home and community-based services provided under a federal waiver, the remaining principal or income of the trust shall be paid directly to the provider of institutional care or home and community-based services, on a monthly basis, for any cost not paid under paragraph "b", to reduce any amount paid as medical assistance under chapter 249A.

*d.* Any remaining principal or income of the trust may, at the trustee's discretion or as directed by the terms of the trust, be paid directly to providers of other medical care or services that would otherwise be covered by medical assistance, paid to the state as reimbursement for medical assistance paid on behalf of the beneficiary, or retained by the trust.

2. Regardless of the terms of a medical assistance income trust, if the beneficiary's total monthly income is at or above the average statewide charge for nursing facility services to a private-pay resident, then, during the life of the beneficiary, any property received or held by the trust shall be expended only as follows, as applicable, in the following order of priority:

*a.* A reasonable amount may be paid or set aside each month for necessary expenses of the trust, not to exceed ten dollars per month without court approval.

*b.* All remaining property received or held by the trust shall be paid to or otherwise made available to the beneficiary on a monthly basis, to be counted as income or a resource in determining eligibility for medical assistance under chapter 249A.

3. Subsections 1 and 2 shall apply to the following beneficiaries; however, the following amounts indicated shall be applied in lieu of the statewide average charge for nursing facility services:

*a.* For a beneficiary who meets the medical assistance level of care requirements for services in an intermediate care facility for persons with mental retardation and who either resides in an intermediate care facility for persons with mental retardation or is eligible for services under the medical assistance home and community-based services waiver except that the beneficiary's income exceeds the allowable maximum, the applicable rate is the maximum monthly medical assistance payment rate for services in an intermediate care facility for persons with mental retardation.

*b.* For a beneficiary who meets the medical assistance level of care requirements for services in a psychiatric medical institution for children and who resides in a psychiatric medical institution for children, the applicable rate is the statewide average charge to private-pay patients for psychiatric medical institution for children care.

*c.* For a beneficiary who meets the medical assistance level of care requirements for services in a state mental health institute and who either resides in a state mental health institute or is eligible for services under a medical assistance home and community-based services waiver except that the beneficiary's income exceeds the allowable maximum, the applicable rate is the statewide average charge for state mental health institute care.

*d.* For a beneficiary who meets the medical assistance level of care requirements for services in a nursing facility and is receiving care or is receiving specialized care such as an adult receiving Alzheimer's care, a child receiving skilled nursing facility care, or an adult or child receiving skilled nursing facility care for neurological disorders, the applicable rate is the statewide average charge for nursing facility services for the services or specialized services provided.

94 Acts, ch 1120, §5

C95, §633.709

96 Acts, ch 1129, § 113; 2004 Acts, ch 1086, §100; 2004 Acts, ch 1166, §2; 2005 Acts, ch 38, §53

CS2005, §633C.3

2007 Acts, ch 136, §1