

### Can the funds from a Payback Trust be used for funeral expenses?

Medicaid must be paid back before any funeral expenses are paid from the trust.

### Who do you contact for approval and yearly reporting of a Payback Trust and when the trust has ended?

After a Payback Trust has been set up, the trust document should be sent to the Department of Human Services caseworker for the Medicaid member who will send on the trust document to the Medicaid Trust Program for review, approval, or denial.

When approved, yearly reports should also be sent to the Medicaid Trust Program. At the end of the trust, by death or otherwise, payment of the money left in the trust up to the amount of all medical assistance given to the beneficiary must be paid to "Iowa Department of Human Services." Payments should be mailed to the same address as the annual reports at:

Medicaid Trust Program  
PO Box 36565  
Des Moines, IA 50315

### Examples of when to consider setting up a Payback Trust:

#### **Special Needs Trusts**

If a child is injured by a medical professional and wins a legal settlement because of medical malpractice and the medical bills continue to be more than the family can afford, a Special Needs Trust may be the best way to gain Medicaid eligibility and use the trust funds for costs that are needed because of the disability.

#### **Pooled Trusts**

If a disabled person receives money from a personal injury lawsuit but has a low income and few other assets, the person may qualify for Medicaid and can discuss a Pooled Trust with a non-profit association that has been approved to manage these types of trusts. This trust is often used when the money from the lawsuit does not justify the cost and labor required to set up a Special Needs Trust. It is also used for inheritances, gifts, or other resources.

#### **Income Trusts**

If a person may be in need of long-term care in a nursing home or long-term care services in the home and has income from pensions, annuities, or retirement funds while also receiving Social Security income, an Income Trust may be a way to get help from Medicaid when the person's income is more than income guidelines.

### Appropriate expenses for Special Needs Trusts or Pooled Trusts:

These types of payback trusts provide for the special needs of a beneficiary that were caused by the beneficiary's disability, and particularly those costs that are **not** covered by Medicaid, such as:

- Cosmetic surgery or non-necessary medical procedures
- Psychological support services
- Electric wheelchair and other aids to help a person move
- Assistive devices for home or vehicles

### Appropriate expenditures for Income Trusts:

These types of payback trusts provide for the health care needs of the beneficiary including those medical expenses that are covered by Medicaid, such as:

- Long-term care
- Home-health care
- Prescriptions for medicine
- Doctors
- Other medical providers

### Report upon death:

Upon the death of the beneficiary or other termination (ending) of the trust, the trustee is responsible for winding up the affairs of the trust and should send notice of the termination, and reason for termination, to the Medicaid Trust Program at the address and phone number on the front of this brochure.

# Medicaid Payback Trusts in Iowa

Medicaid Trust Program  
PO Box 36565  
Des Moines, IA 50315

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Toll-free: 855/318-7878  
Fax: 515/246-0155

Email: [Trust@dhs.state.ia.us](mailto:Trust@dhs.state.ia.us)  
[www.iowa-medicaidtrusts.com](http://www.iowa-medicaidtrusts.com)

## **What are Medicaid Payback Trusts in Iowa?**

Medicaid Payback Trusts, also called Payback Trusts, are trusts that name the Iowa Department of Human Services as a residual beneficiary (the person who receives the assets from a will or trust that are left after all other assets have been given to other persons) and meet the requirements of 42 USC 1396(p)(d) and Iowa Code Chapter 633C. There are three types of payback trusts: Medical Assistance Special Needs Trusts, Medical Assistance Pooled Trusts, and Medical Assistance Income Trusts.

## **Who can use a Medicaid Payback Trust?**

Special Needs Trusts or Pooled Trusts can only be set up for people with disabilities. Only disabled persons under 65 years of age may set up a Special Needs Trust or a Pooled Trust.

Penalties may be imposed for transfers to a Special Needs Trust or a Pooled Trust if the person is over 65 years of age.

An Income Trust is available to persons whose income is more than the eligibility guidelines, but is not enough to pay their medical expenses. In most cases, Income Trusts are used when a person enters long-term care. An Income Trust is also known as a Qualified Income Trust, an Income Assignment Trust, or a Miller Trust.

## **Who can set up a Medicaid Payback Trust?**

A Special Needs Trust can be set up for the benefit of a disabled person by the person's parent, grandparent, legal guardian, or a court.

A Pooled Trust must be set up with a non-profit association that will also be in charge of the trust. This non-profit association must keep a separate account for each person who has a trust, but can "pool" the funds for management and investment purposes. A Pooled Trust can be set up for the benefit of the individual by a parent, grandparent, legal guardian, or a court just like a Special Needs Trust, or by the disabled person.

An Income Trust is set up by a Medicaid applicant when the applicant's income is more than the income guidelines but is not enough to pay the applicant's medical expenses. The Medicaid applicant or member sets up the trust and is the beneficiary (person who receives money) of the trust.

## **Who can serve as the trustee of a Medicaid Payback Trust?**

A person or financial institution (such as a bank, credit union, or trust company) may serve as the trustee (person or organization that manages) of a Special Needs Trust and an Income Trust, but only a non-profit association can serve as the trustee of a Pooled Trust.

## **How should a payback trust be named?**

The Medicaid Trust Program would recommend that the trust be named with the type of trust and the name of the beneficiary, such as:

Medical Assistance Income Trust for [first name] [last name]

Medical Assistance Special Needs Trust for [first name] [last name]

## **What administrative expenses are allowed from a Medicaid Payback Trust?**

The charges required to manage the trust that can be paid from the trust cannot be more than \$10 per month without court approval.

## **What other payments can be made from a Medicaid Payback Trust?**

Special Needs Trusts and Pooled Trusts are set up to care for the special needs of a beneficiary because of the beneficiary's disability. Payments from a trust to provide for these needs must be approved by the District Court. Payments can also be made from the trust for medical care or services that would otherwise be paid by Medicaid or to pay back the state for medical services that were paid for the beneficiary.

Income Trusts have less than enough money to pay for medical expenses every month, so payments are usually made toward medical expenses leaving nothing left in the trust every month. The medical assistance program then pays the balance of the monthly medical expenses.

## **When should the Medicaid Trust Program be notified of changes in the trust?**

The Medicaid Trust Program will request annual reports and any changes to the address of the trust should be reported within ten days of any change.

## **How can the trustee determine if the special needs of the beneficiary are due to the beneficiary's disability?**

The special needs are only the needs that exist because of the beneficiary's disability and would not include ordinary support, care, education, or entertainment that would occur without the disability.

## **What happens if the trustee pays for items that are not caused by the disability?**

The trustee may have to pay back the trust if funds are spent improperly, because the trustee has a duty to protect the funds for the state of Iowa, the residual beneficiary.

## **Does the trustee spending funds in the wrong way affect the ability of the beneficiary to collect Medicaid?**

For Medicaid eligibility purposes, improper spending of trust funds does not affect the exempt status of the trust, the treatment of funds remaining in the trust, or the treatment of the income earned by the trust. However, the improperly spent trust funds may count as income to the beneficiary, affecting the beneficiary's Medicaid eligibility. Further, the trustee may be personally liable to repay improperly spent funds to the trust.