

WAC 182-516-0120 Irrevocable self-settled trusts for a disabled client under age sixty-five established on or after August 11, 1993.

(1) This section governs how the agency or the agency's designee treats self-settled trusts, for a disabled client under age sixty-five established under 42 U.S.C. 1396p (d)(4)(a) on or after August 11, 1993, for medicaid eligibility purposes.

(2) A self-settled trust established on or after August 11, 1993, is not an available resource if:

(a) The beneficiary is under age sixty-five and disabled under WAC 182-512-0050 (1)(c) when the trust is established;

(b) The trust is irrevocable;

(c) The trust was established for the sole benefit of that beneficiary;

(d) The trust was established by the beneficiary's parent, the beneficiary's grandparent, the beneficiary's legal guardian, by a court, or on or after December 13, 2016, the beneficiary; and

(e) The trust says that the states that have spent medicaid funds for the beneficiary will receive all amounts remaining in the trust up to the amount of medicaid funds spent for the beneficiary.

(i) For trusts established from August 11, 1993, to July 31, 2003, the trust must pay the states when the beneficiary dies.

(ii) For trusts established on or after August 1, 2003, the trust must pay the states when the beneficiary dies, the trust terminates, or the beneficiary's disability ends.

(3) The medicaid agency or the agency's designee does not apply a penalty period to a beneficiary for asset transfers into a trust, described under subsection (2) of this section, when the beneficiary is under age sixty-five as of the date of the transfer.

(4) Assets in trusts under subsection (2) of this section continue to be unavailable resources, even after the beneficiary turns age sixty-five.

(5) Asset transfers to the trust from the beneficiary, after the beneficiary turns age sixty-five, may be subject to a transfer penalty under WAC 182-513-1363.

(6) If a trust does not meet the requirements under subsection (2) of this section, see WAC 182-516-0130.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 42 U.S.C. 1396p. WSR 18-04-037, § 182-516-0120, filed 1/30/18, effective 3/2/18.]