

WAC 182-516-0115 Revocable self-settled trusts established on or after August 11, 1993. (1) This section applies to revocable trusts that are self-settled and established on or after August 11, 1993.

(2) This section does not apply to assets in a revocable trust established before August 11, 1993.

(3) A revocable trust is a self-settled trust if:

(a) The assets of the trust are at least partially from the beneficiary or the beneficiary's spouse;

(b) The trust is not established by will; and

(c) The trust was established by:

(i) The beneficiary or that beneficiary's spouse;

(ii) A person, including a court or administrative body, with legal authority to act in place or on behalf of the beneficiary or that beneficiary's spouse; or

(iii) A person, including a court or administrative body, acting at the direction or upon the request of the beneficiary or that beneficiary's spouse.

(4) The medicaid agency or the agency's designee treats assets in a revocable self-settled trust under this section as follows:

(a) Assets are subject to the resource exclusions under chapter 182-512 WAC; however, for an institutionalized individual, the resource exclusion for the home under WAC 182-512-0350 does not apply; and

(b) Assets not excluded under chapter 182-512 WAC are available resources.

(5) Payments from assets in the trust under this section to or for the benefit of the beneficiary are unearned income of the beneficiary.

(6) If unearned income under subsection (5) of this section was from an available resource under subsection (4) of this section, then the value of the available resource will be reduced by the amount of unearned income under subsection (5) of this section.

(7) Any payments from the revocable trust, other than payments under subsections (5) and (6) of this section, are uncompensated asset transfers.

[Statutory Authority: RCW 41.05.021, 41.05.160 and 42 U.S.C. 1396p. WSR 18-04-037, § 182-516-0115, filed 1/30/18, effective 3/2/18.]