2615.75.15 CERTAIN TRUSTS RECEIVING SPECIAL CONSIDERATION

The trust provisions explained in the preceding Section 2615.75.10 do not apply to certain special needs trusts and pooled trusts as well as Miller trusts defined below. The following trusts should not be considered countable resources.

Special Needs Trust

This is a trust containing the assets of a disabled applicant/recipient under age 65, which is set up by the applicant's/recipient's parent, grandparent, legal guardian or by a court, and is established for the sole benefit of the applicant/recipient. A trust established on or after December 13, 2016, by an individual with a disability under age 65 for his or her own benefit can qualify as a special needs trust, conferring the same benefits as a special needs trust set up by a parent, grandparent, legal guardian or court. The individual must be disabled according to SSI criteria. Such a trust must contain a provision specifying that, upon the death of the individual, the State will receive all amounts remaining in the trust up to the total amount of Medicaid benefits paid on the individual's behalf.

Pooled Trusts

A pooled trust is a trust containing the assets of a disabled applicant/recipient (disabled according to SSI criteria) which meets the following conditions:

- The trust is established and maintained by a non-profit association,
- A separate account is maintained for each of the beneficiaries, but for investment and management purposes the funds are commingled,
- The trust account is established by the applicant/recipient or their parent, grandparent, legal guardian or by a court for the sole benefit of the applicant/recipient,
- There is a provision which specifies that upon the death of the beneficiary, any funds not retained by the trust will be paid to the State up to the total amount of Medicaid benefits paid on the individual's behalf

Miller (Qualified Income Trusts)

A Miller Trust (or Qualified Income Trust (QIT)) is a unique trust that allows persons residing in long-term care facilities or receiving home-and-community-based-services through a 1915(c) waiver (see IHCPPM sections 3305.00.00 and 3320.10.00) who have personal income above the Special Income Level (SIL) (see IHCPPM sections 3455.14.00 and 3010.20.15) to be considered Medicaid eligible. A Miller Trust may be established for a Medicaid applicant/recipient who is a beneficiary of the trust by the applicant/recipient’s Authorized Representative for Medicaid eligibility purposes, legal guardian, power-of-attorney (POA), or family member if the applicant/recipient is incapacitated as shown with documentation from a licensed physician.

A Miller Trust is one that:

- Is funded only by the income of the beneficiary including accumulated interest on that income. The trust will not be funded with the beneficiary’s resources, nor income or resources of other persons, and
• Upon the death of the beneficiary, the State of Indiana will receive all remaining funds in the trust up to the amount of Medicaid expenditures paid on the individual’s behalf.

All trusts should be sent to OMPP through the helpdesk PAL system to make a determination of validity and exemption. DFR needs to send all trusts to OMPP through the helpdesk PAL system to make a determination of validity and exemption.