



**State of Florida
Department of Children and Families**

Rick Scott
Governor

Mike Carroll
Secretary

DATE: January 8, 2018 **TRANSMITTAL NO.:** P-18-01-0002

TO: Economic Self-Sufficiency Operations Managers
Economic Self-Sufficiency Program Offices

FROM: Tonyaleah Veltkamp, Chief, Program Policy
(Signature on File)

SUBJECT: Special Needs Trust for Disabled Individuals Under Age 65

EFFECTIVE: Upon Receipt

The purpose of this transmittal is to provide staff with new policy for establishing special needs trust for disabled individuals under age 65.

Background

The 21st Century Cures Act for Special Needs Trust amended the Social Security Act to include “the individual” applying for Medicaid to the list of people who may establish a special needs trust on the individual’s behalf.

Old Policy

A special needs trust for a disabled individual under age 65 must be set up by a parent, grandparent, legal guardian of the individual applying for Medicaid, or the court.

New Policy

A special needs trust for a disabled individual under age 65 may be set up by a parent, grandparent, legal guardian of the individual applying for Medicaid, the court, or by the individual applying for Medicaid.

The other criteria of a special needs trust remain unchanged.

These requirements are:

- The individual must be under age 65 and have a disability;
- The trust must be funded, at least in part, with the individual’s own income or assets; and
- Upon the death of the individual, the trust must designate the remaining balance in the account will be paid to the state, not to exceed the total medical assistance paid.

Trusts established prior to December 13, 2016, by an individual with a disability for his or her own benefit do not qualify as a special needs trust. However, trusts established by an eligible third party before and after this date still qualify as a special needs trust.

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If the Department is made aware of an application denied due solely to assets because a trust was set up by the individual on or after December 13, 2016, the trust and the application must be reconsidered.

If there are policy questions, region offices may contact Nathan Lewis at Nathan.Lewis@myflfamilies.com.

cc: Assistant Secretary for Economic Self-Sufficiency (Jeri Culley)
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