

ALTCS Policies On Special Treatment Trusts

People who are over the income or resource limits for ALTCS can sometimes still be eligible if they set up one of the Special Treatment Trusts listed below. Special Treatment Trusts have specific rules they must follow.

Income-Only Trust (Miller Trust)

Income-only trusts are for people whose income is over the ALTCS income limit. Some of the conditions of an income-only trust include:

- The person who needs ALTCS benefits (the customer) must be named as the primary beneficiary.
- AHCCCS must be named as a remainder beneficiary of the trust.
- A bank account must be set up that is titled to the trust and opened with a \$0.00 balance.
- Only the customer's income can be deposited into the trust account.
- Income must be deposited into the trust account in the month the customer receives it.
- The income assigned to the trust must be direct deposited into the trust account unless the source of the income does not allow direct deposit into a trust account.
- Income deposited into a trust account does not count as income in determining eligibility but is counted in determining the customer's ALTCS Share of Cost.

Disabled Individual Under Age 65 Trust

Disabled individual under age 65 trusts are for people whose resources are over the ALTCS limit. Some of the conditions of a disabled individual under age 65 trust include:

- The person who needs ALTCS benefits (the customer) must be named the primary beneficiary.
- AHCCCS must be named as a remainder beneficiary of the trust.
- Only the customer's income or resources (or both) may be deposited into the trust account.
- The trust must be set up by the customer, customer's parent, grandparent, legal guardian or a court.
- The customer can be any age when the trust is created but any funding or additions to the trust after the customer turns 65 years old is reviewed as a transfer that may affect eligibility.
- The customer must be disabled at the time the trust is created.
- Assets deposited into the trust account do not count in determining ALTCS eligibility.
- Income deposited into the trust account does not count as income in determining eligibility but is counted in determining the customer's ALTCS Share of Cost.

Pooled Trust

Pooled trusts are for people whose resources are over the ALTCS limit. A pooled trust is one large master trust document and separate Joinder Agreements for each person to join and become part of the master trust. Similarly, there is one large trust account and many smaller accounts (one for each person joining the trust) added to it. The money is pooled together and used to make investments with the hope of increasing the money in the trust. Some of the conditions of a pooled trust include:

- The person who needs ALTCS benefits (the customer) must be named the primary beneficiary.
- AHCCCS must be named as a remainder beneficiary of the trust.

- The trust must be set up before the customer turns 65 years old. Any additions to the trust after the customer turns 65 are reviewed as transfers.
- The trust is created and managed by a non-profit association.
- A separate account is kept for each beneficiary of the trust. The pooled account is set up by the parent, grandparent, legal guardian or a court for people who are disabled.

Money Taken Out of a Special Treatment Trust

- Money taken out of a Special Treatment Trust can only be used for the customer's benefit and for the purposes specified in state law (A.R.S. §36-2934.01).
- Any money given directly to the customer or paid from the trust for the customer's food or shelter will be counted as income in determining eligibility.

Money Left in the Trust Account

AHCCCS will be paid the money left in the trust account when the person dies or the trust is stopped. The dollar amount paid to AHCCCS will not be more than the actual amount of money AHCCCS paid for the customer's medical care.

Trustee Information

- A trustee is the person who is given control of the income or resources that are placed in the trust.
- The trustee is responsible for managing the income or resources for the customer's benefit.
- The trustee must give ALTCS information about how the trust is being managed. This means the trustees must let ALTCS know about money they expect to take out of the trust and changes in the plans to take out the money.
- The trustee cannot use trust funds to make gifts to, payments for or loans to any other person, whether in cash or in kind.
- The trustee must make the appropriate monthly disbursements based on the income assigned to the trust.
- The trustee must notify the local ALTCS office of any changes in trust income or anticipated payments 45 calendar days in advance or within 30 calendar days if there is an emergency trust payment that must be made. Not doing this can affect the customer's eligibility and their Share of Cost.

Help in Creating a Special Treatment Trust

A Special Treatment Trust must meet certain federal and state requirements. You can find these laws at a public library or on the Internet at:

- United States Code (USC):
42 U.S.C. §1396p(d)(4)
On the internet: www.gpo.gov/fdsys/
- Arizona Revised Statutes (ARS):
A.R.S. §36-2934.01
On the internet: www.azleg.gov/arizonarevisedstatutes.asp
- Arizona's Eligibility Policy Manual Sections MA801 and MA803.
On the internet: <https://epm.azahcccs.gov/EligibilityPolicyManual>

You may need to get help in creating the trust document. You may be able to get help creating a Special Treatment Trust from your attorney. If you do not have an attorney, you can find one in the

Elder Law Specialist listing in the Attorney Section of the Yellow Pages or by completing an internet search for elder law attorneys in your area. Ask the attorney if he or she is familiar with Special Treatment Trusts needed for Medicaid/ALTCS eligibility. You may be able to receive free help from your local Area Agency on Aging.

If you have additional questions, contact your Benefits and Eligibility Specialist in the ALTCS local office.