

Emergency Message

Effective Dates: 12/13/2016 - Present

Identification Number: EM-16053
Intended Audience: All RCs/ARCs/ADs/FOs/TSCs/PSCs/OCO/OCO-CSTs /ODAR
Originating Office:
Title: Information Regarding a Change in Supplemental Security Income (SSI) Special/Supplemental Needs Trust Policy– Permanent Instructions Will Follow Shortly
Type: EM - Emergency Messages
Program: Title XVI (SSI)
Link To Reference: [SI 01120.203](#)

Retention Date: June 16, 2017

A. Purpose

This EM provides important information regarding a change in SSI trust policy as a result of the 21st Century Cures Act (P.L. 114-255).

B. Background

On **December 13, 2016**, the President signed into law the 21st Century Cures Act. Section 5007 of this Act allows individuals to establish their own special needs trusts and qualify for the exception to resource counting under Section 1917(d)(4)(A) of the Social Security Act.

C. Policy for trusts established before 12/13/16

For special needs trusts under Section 1917(d)(4)(A) of the Social Security Act established prior to December 13, 2016, the resource counting provisions of Section 1613(e) do not apply to a trust:

- Which contains the assets of an individual under age 65 and who is disabled; and
- Which is **established for the benefit of such individual through the actions of a parent, grandparent, legal guardian or a court;** and
- Which provides that the State(s) will receive all amounts remaining in the trust upon the death of the individual up to an amount equal to the total medical assistance paid on behalf of the individual under a State Medicaid plan.

NOTE: This law does not affect special needs trusts established prior to December 13, 2016.

D. Policy for trusts established on or after 12/13/16

Effective with special needs trusts established on or after December 13, 2016, the resource counting provisions of the SSI trust statute do not apply to a trust **established through the actions of the individual, a parent, grandparent, legal guardian, or a court**. The other requirements in section C. above continue to apply.

Direct all program-related and technical questions to your Regional Office (RO) support staff. RO support staff may refer questions, concerns or problems to their Central Office contacts.
