Donation Policy for Public Assistance Programs

Direct Donations

TANF/SNAP/Texas Works Medicaid (Medicaid for low-income parents and caretaker relatives, pregnant women and children) **and CHIP** :

- If a donation is provided in a non-cash format such as a gift card or voucher and the person cannot obtain cash back, then the donation is exempt.
- If the donation is to pay for past or future expenses incurred by the household (that aren't normal living expenses) such as medical bills, these payments are considered reimbursements and the donation is exempt.
- If the payment is from any federal disaster programs or entities (for example FEMA or Red Cross), the payments are exempt.

- If a donation is provided as cash, for:
  - **TANF and SNAP**:
    - Up to $300 per quarter may be *exempted* when the cash contributions are from a private non-profit organization based on need.
      - Any excess is counted as unearned income in the month received.
    - Any income deposited in a bank account that is accessible to the household would be counted as a resource in the month after receipt.
  - **Texas Works Medicaid** (Medicaid for low-income parents and caretaker relatives, pregnant women and children) **and CHIP**:
    - Non-taxable cash payments are exempt unless the payment is:
      - paid from a tax payer to their tax dependent;
      - given by a tax payer who is not the receiver's spouse or parent; and
      - total amount exceeds $50/month.

Medicaid for the Elderly and People with Disabilities (MEPD) (Medicaid for persons who are aged, blind or disabled, including Medicare Savings Programs)**:**

- Donations, unless otherwise exempt, are countable in the month received and any remaining income as a resource in the following months, if unspent.
- If the donation is used to pay for past or future expenses already incurred by the household (that aren't normal living expenses) such as medical bills, these payments are considered reimbursements and the donation is exempt.
- If the person is receiving SSI, contact SSA to determine the impact of the funds on their benefits.

Trusts

A trust is a relationship where property is held by one party (a person, a bank, a group of people) for the benefit of someone else. Every trust has a beneficiary and a trustee. The beneficiary is the person that the trust is set up to support, and the trustee is the person who makes decisions about how the money is spent. The trustee can be anyone, but typically is a spouse, parent or guardian, financial institution, or a person's power of attorney.

Recipient is the Trust Beneficiary

- For **All Programs** (TANF/SNAP/all Medicaid/CHIP):
  - If the funds are placed in an irrevocable trust (not legally available), then the balance of the trust is exempt from resources.
- For **SNAP and TANF**:
  - Income paid directly to the trust beneficiary from the trust is considered unearned income in the month of receipt.
  - Trust funds are exempt as a resource if the following conditions are met:
    - The trust arrangement is unlikely to end during the certification period and cannot be revoked or changed by a household member during the certification period.
    - The trustee is a:
      - court, institution, corporation, or organization not under the direction or ownership of a household member; or
      - court-appointed person who has court-imposed limitations placed on the use of the funds; and
      - The trust investments do not directly involve or help any business or corporation under the control, direction, or influence of a household member.

- For **Texas Works Medicaid and CHIP**:
  - Income paid directly to the trust beneficiary from the trust is considered unearned income in the month of receipt.
  - Trust funds are exempt as a resource.

- For **MEPD**:
  - Payments from the trust to, or for the benefit of, the trust beneficiary (Medicaid recipient) are considered unearned income in the month of receipt, excluding payments:
    - For medical or social services for the trust beneficiary; and
    - To an ABLE account established for the trust beneficiary.
  - The trust is not a countable resource if the beneficiary (Medicaid recipient) cannot terminate the trust or direct the use of the trust assets for his or her own support and maintenance.

Recipient is the Trustee

- For **All Programs** (TANF/SNAP/all Medicaid/CHIP):
  - The trustee is responsible for managing the assets in a trust and must follow the rules of the trust relating to how the money can be used.
  - Generally, a trust is not considered as income or a resource for the trustee.
  - However, if the trustee can use the trust for their own benefit, all income and resources are considered available and are countable when determining eligibility.

Special Needs Trusts(SNT)

A special needs trust is a revocable or irrevocable trust established with the assets (income or resources) of a person under age 65 who has a determination of disability as defined by the Social Security Administration (SSA).

- The trust must be established for the person's benefit by a parent, grandparent, legal guardian, a court or the person.
- To maintain eligibility for Medicaid, the beneficiary cannot have control over the assets in the Special Needs Trust and cannot manage the assets, have the right to demand distributions of income or property from the trust, name the Trustee or change the terms of the Special Needs Trust.
- For **All Programs** (TANF/SNAP/all Medicaid/CHIP):
  - A SNT is not considered a resource.

    - Payments from the trust to, or for the benefit of, the trust beneficiary (Medicaid recipient) are considered unearned income in the month of receipt, excluding payments:
        - For medical or social services for the trust beneficiary; and
        - To an ABLE account established for the trust beneficiary.

Uniform Transfers to Minors Act (UTMA) Custodial Accounts

Custodial accounts that help adults save and invest money on behalf of a child until the child reaches a certain age when the account must be transferred to them.

- Money put into a custodial account is considered an irrevocable gift to the child.
- The custodian of the account must ensure the funds are invested and used for the child's benefit. Between the ages of 18 and 25, legal control of the account must be turned over to the child, who can then use the money for any purpose they choose.
- For **All Programs** (TANF/SNAP/all Medicaid/CHIP):
    - If the UTMA was established with funds that did not belong to the minor, it is not considered income or resources. In the month the minor attains the age of majority under applicable State law, all UTMA property becomes available to the beneficiary and is subject to income and resource counting.

Achieving a Better Life Experience (ABLE) Accounts

Tax-free savings accounts for a person with a disability that occurred before age 26, for the beneficiary’s disability-related expenses.

- For **All Programs** (TANF/SNAP/all Medicaid/CHIP):
    - Funds distributed from an ABLE account are exempt from income.
    - Contributions to an ABLE account from a person other than the designated beneficiary are not considered income to the beneficiary.
    - Funds held in an ABLE account are excluded from resources.
    - Total annual contributions cannot exceed the federal gift tax exclusion which is $16,000 for 2022.

Educational Accounts

An account established for paying a designated beneficiary's education expenses beyond high school.

- For **All Programs** (TANF/SNAP/all Medicaid/CHIP):
  - Educational assistance including educational loans, scholarships and grant money are exempt from income.
  - If the funds are placed in an educational account such as a 529 Plan or School Based Savings account, the balance of the account is exempt from resources.

Program Policy's Response:

Question: Are funds in an irrevocable trust that distributed *directly to a third-party service provider* excluded from an accounting of what might otherwise be considered funds "paid directly to the trust beneficiary" as that phrase is used in the HHSC guidance?

Response: Any payments made from an irrevocable trust to, or **for the benefit of**, the beneficiary, except medical and social services, are countable unearned income to the beneficiary in the month of receipt. Payments for the benefit of a beneficiary include payments of any sort made to another entity so that the person receives some benefit from the payment, such as the purchase of clothing or other items for the person or payments to a third party for food, rent or other items to maintain a home where the beneficiary resides.

Question: For UTMA Accounts, the HHSC Guidance does not appear to contemplate distributions from a UTMA account for authorized reasons. It is clear that funds held in a UTMA account is considered neither a resource or income, but if funds are distributed to the beneficiary, does the same apply? And, if so, same question as above: would that also apply to payments to third-party service providers directly from the UTMA account?

Response: Regular trust policy would apply to distributions. Any payments made from the UTMA account directly to, or **for the benefit of**, the trust beneficiary (Medicaid recipient) are considered unearned income in the month of receipt, excluding distributions:

- For medical or social services for the trust beneficiary; and
- To an ABLE account or to an educational account established for the trust beneficiary