

## J Trust Funds

**REVISION 16**  
(04/01/11 – 06/30/11)

Trust (g) funds are legal instruments that establish account funds held for a beneficiary. Trust funds can be established by a court order, guardian, legal representative, or a nonparticipant. When the trust is from Indian Gaming, see Indian Gaming Industry Per Capita Disbursement.

Accounts held in trust or by a conservator and that can only be accessed by a court order are referred to as IRREVOCABLE trust funds. Consider the following for irrevocable trust funds:

- Determine availability and COUNTABLE value of the trust fund from the terms written in the trust agreement discretionary clause, or court records. The maximum distributable amount that can be paid from the interest or principal of the trust in a budget month is the COUNTABLE resource. (See Ownership and Availability)

Count the available amount when the trust fund is accessible to the participant. Count funds that are available for meeting daily basic needs (such as food, clothing or shelter). The available amount is found in the agreement as part of the discretionary clause.

- For CA and MA MD, allow the participant or the parent 20 days to petition the trustee or the court to make funds available when the trust fund is in the name of a trustee and is not accessible. (See MD Resource Considerations)

The participant MUST petition the court for the funds when either of the following applies:

The trust fund permits the distribution of monies to the participant in accordance with a court order.

The trust fund permits the participant to petition the court for the fund, and the trustee refuses.

### WARNING

Do not deny or delay benefits when the participant has taken all petition action possible within the 20 days and there is a delay.

When the fund is determined to be available after case approval, treat the information as a change. (See Decrease in Benefits)

- Count the available amount when the participant fails to provide verification that the petition has been filed by the end of the 20 days.

#### **NA EXCEPTION**

Do not count the trust fund when any of the following applies:

- The trust arrangement is not going to stop during the approval period
- A participant or nonparticipant who has the power to revoke the trust or change the beneficiary name does not live in the residence
- A court, institution, corporation, bank or organization not under direction or ownership of anyone living in the residence is appointed or employed as trustee of the funds
- A nonparticipant who has limitations placed on use of the funds is appointed by the court as trustee of the funds
- Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction or influence of someone in the budgetary unit. The funds held in irrevocable trust also have been established from either of the following:

Established from the budgetary unit's own funds. The trustee must use the funds solely to make investments on behalf of the trust, or to pay the educational or medical expenses of anyone named by the budgetary unit that created the trust.

Established from funds that are outside of the budgetary unit residence by a nonparticipant outside of the residence

**NOTE** Consider all payments to the participant from the trust fund as unearned income, and key on **UNIN**. Consider the trust fund as a lump sum when the full amount of the fund is paid to the participant. (See [Liquid Assets Lump Sum](#)) Do not count payments as income AND resources in the same month.

When a participant CANNOT legally control the use of the trust fund for his or her own food, clothing or shelter expenses, it is NOT COUNTABLE.

Key trust funds on **FIAC** using the TF Financial Account Code.

When the trust funds ARE available, they are COUNTABLE and keyed according to [financial account type](#) as follows:

- For funds in a personal checking account at a bank, see [Checking Accounts](#).
- For funds in a savings account at a bank, see [Savings Accounts](#).
- For funds in a credit union account, see [Credit Union Accounts](#).