



INSTRUCTIONS FOR COMPLETING THE IRREVOCABLE INCOME TRUST AGREEMENT FORM

The “Irrevocable Income Trust Agreement Form” published by the Department may be used if an individual is required to establish an income trust to receive or maintain medical assistance eligibility. Utilizing this Form is the preferred method for establishing an income trust since any trusts established with an alternative form may result in additional review time to confirm that the trust meets the requirements of C.R.S. § 15-14-412.7 and C.C.R. 2505-10, Section 8.100.7.E.6.a. The applicant/member or their representative should consult with the individual’s eligibility site to determine whether an income trust is necessary.

If the applicant or member utilizes the “Irrevocable Income Trust Agreement Form” to establish an income trust, then the eligibility site should confirm the form is fully completed prior to submitting it to the Department. A completed form should include the following information in the blank spaces:

1. Introduction Paragraph - Date income trust was executed, name of applicant or member (Settlor), and name of the initial trustee;
2. Section 1.01 - Name of Trust (this is necessary to establish the bank account for the trust and should include the first and last name of the applicant or member);
3. Section 1.02 - Name of applicant or member;
4. Last Page -
 - a. Signature of Settlor (Note: If a spouse or any other individual is signing the trust on behalf of the applicant member, then that individual should sign their own name and designate that they are signing on behalf of the applicant/member as their agent, guardian, conservator or pursuant to court order. This individual will also need to provide proof of their authority to act on behalf of the applicant/member. Proof of authority may include a copy of a power of attorney document or a court order designating a guardian, conservator, or another individual the express authority to establish a trust on behalf of the applicant/member);
 - b. Signature of initial trustee;
 - c. Mailing address and email, if any, for the initial trustee;
 - d. Notarization is not required for the trust to be valid but is preferred;
5. Schedule A - Description of each income source along with the amount and frequency; and
6. Appointment of Successor Trustee - Must be completed if applicant/member is designated as the initial trustee, otherwise, this form is optional.

Frequently Asked Questions:

- Who is the trustee and what do they do? The trustee is the individual or entity who ensures that income received is deposited into the trust account and distributed or retained in the trust, in accordance with the terms of the trust and the applicable rules and regulations concerning income trusts. The applicant/member may name themselves the trustee if a successor trustee is named.
- Is a successor trustee required? It is highly recommended that a successor trustee is always named at the time the trust is established but an income trust will not be denied for failing to name a successor trustee unless the applicant/member names themselves as the initial trustee. Although the successor trustee is not required to sign the income trust agreement, it is advised that they are informed of the existence of the trust and their possible duties as successor trustee.
- What are the trustee's responsibilities?
 - Establish a dedicated bank account for the income trust that is titled in the name of the trust and kept separate from any of the member's accounts or funds held outside of the trust. The dedicated account can be either a checking or savings account and the trustee should ensure that the member's income is placed into the trust account each month. If it is not possible to directly deposit income into the trust account, then the trustee should ensure that the income required to be retained in trust, if any, is transferred into the trust account by the end of the month. For example, Social Security does not allow payments to be directly deposited into a trust account so such benefits may be paid directly to the member's personal bank account or to the nursing facility as representative payee, and the trustee must then transfer any amount remaining after the patient payment into the trust account. Verification of this account must be provided to the eligibility site and the Department.
 - The trustee should request information from the member or their representative on the exact amount that is required to be retained in trust and/or paid as the member's patient payment. If the member resides in a nursing facility, it is the trustee's responsibility to ensure the member's "patient payment" is made to the nursing facility each month from the income placed into the trust account during that month. The member or their representative should report any known changes in income to the eligibility site and remit any additional income to the trustee for deposit into the trust bank account. The eligibility site should be using the published "Income Trust Ledger" to document the required monthly deposits into the trust for each year, updating as necessary in the interim for disclosed changes in income, and compare these required deposits to

the bank statements for the trust account to ensure the proper amount is accumulating in the trust. If the trustee has a release on record, the trustee may request this same document for their records to ensure proper funding.

- Upon the death of the member, or if the trust no longer has a purpose due to the loss of eligibility, the trustee must contact the Colorado Department of Health Care Policy & Financing. The preferred method of contact is email at medicaid.trusts@state.co.us. The balance of the trust must first be used to reimburse the Department for the medical assistance benefits received by the member. Generally, this is the entire balance of the trust. The Department will notify the trustee if they do not need to remit the entire balance. Along with payment, the trustee should also remit a completed record of deposits and withdrawals for the trust, sometimes referred to as trust accounting. A copy of bank statements for the trust account is often sufficient for this purpose.