



## **Eligibility Operations Memo 24-08**

**DATE:** December 2024

**TO:** MassHealth Eligibility Operations Staff

**FROM:** Heather Rossi, Deputy Chief Operating Officer, Eligibility Policy and Implementation

**RE:** **Eligibility Changes Concerning Transfers to Pooled Trust**

### **Introduction**

MassHealth is rescinding [EOM 23-15: Eligibility Changes Concerning Transfers to Pooled Trusts](#) and issuing this EOM to provide updated guidance on certain transfers into pooled trust accounts. MassHealth will also be revising its regulations at 130 CMR 515.001 and 130 CMR 520.019(D). These changes comply with state law.

### **Implementation Rules**

State legislation provides that permissible transfers into valid pooled trust accounts can be made both before and after the permanently and totally disabled individual turns age 65, without assessing a penalty period. The following rules apply when evaluating transfers into pooled trust accounts.

- Transfers into valid pooled trust accounts made before and after the permanently and totally disabled individual turns 65 are permissible.
  - This means MassHealth will not assess a transfer penalty regardless of when the transfer to the MassHealth-approved trust was made.
- Individuals who are permanently and totally disabled may transfer assets into a MassHealth-approved pooled trust without incurring a penalty.
- Funds in a MassHealth-approved pooled trust and properly administered pooled trust account are typically noncountable.

**IMPORTANT NOTE:** If an applicant or member has funded a pooled trust that has not been reviewed or approved by MassHealth, MassHealth staff can submit the complete pooled trust package to Eligibility Legal for review.

### **Permissible Pooled Trust Transfers**

A pooled trust that has been found by MassHealth as meeting the requirements of §1917(d)(4)(C) and associated state laws may be exempt from being treated under normal Medicaid trust countability rules in §1917(d).

A properly established pooled trust will be excluded from a disabled applicant's or member's countable assets. The funding of the pooled trust will not be subject to disqualifying transfer analysis if they meet the following requirements of 130 CMR 515.001.

- (1) The trust was created by a nonprofit organization.
- (2) A separate account is maintained for each beneficiary of the trust, but the assets of the trust are pooled for investment and management purposes.
- (3) The account in a pooled trust was created for the sole benefit of the individual by the individual, the individual's parents or grandparents, or by a legal guardian or court acting on behalf of the individual.
- (4) The trust provides that the Commonwealth of Massachusetts will receive amounts remaining in the account upon the death of the individual up to the amount paid by the MassHealth agency for services to the individual. The trust may retain reasonable and appropriate amounts as determined by the MassHealth agency.
- (5) The individual was disabled at the time his or her account in the pool was created.

### **Applications Received on or after March 1, 2024**

Applications received on or after March 1, 2024, from individuals who transferred assets into a pooled trust after turning 65 and within five years of applying for MassHealth will not be penalized for funding the pooled trust after turning 65.

For applicants who were assessed a period of ineligibility from payment of nursing facility services due to disqualifying transfer(s) as a result of funding a valid, MassHealth-approved pooled trust, MassHealth will review the pooled trust funding and the imposed-penalty period. MassHealth will adjust eligibility as necessary. Impacted applicants can also contact MassHealth to have their eligibility for payment of long-term services and supports while residing in skilled nursing facility reviewed.

### **Questions?**

Have your MEC designee contact the Policy Hotline.

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