TO: Local District Commissioners, Medicaid Directors

FROM: Judith Arnold, Director
Division of Coverage and Enrollment

SUBJECT: Transfers to Pooled Trusts by Disabled Individuals Age 65 and Over

EFFECTIVE DATE: Immediately

CONTACT PERSON: Local District Liaison:
Upstate (518)474-8887 NYC (212)417-4500

The purpose of this GIS message is to clarify the treatment of monthly income transferred into pooled trusts by disabled individuals age 65 or over, when determining Medicaid eligibility for nursing facility services.

A pooled trust is a trust which meets the criteria set forth in Section 366(2)(b)(2)(iii) of the Social Services Law. It contains the assets of a certified disabled individual of any age and is established and managed by a non-profit association, which maintains separate accounts for the benefit of disabled individuals. The principal and income of a pooled trust account are not counted in determining Medicaid eligibility.

Although pooled trusts are exempt as resources in the eligibility determination process regardless of the disabled individual's age, for purposes of the transfer provisions, any additions to the trust after the individual becomes 65 years of age are subject to applicable transfer rules.

Under the transfer rules, no transfer penalty is imposed for a compensated transfer, i.e., when the individual has received fair market value in exchange for the assets transferred. In the case of transfers to a pooled trust after the disabled individual turns age 65, amounts paid out of the pooled trust for the benefit of the disabled individual subsequent to the transfer and prior to the Medicaid eligibility determination for nursing home care must be used to offset all or a portion of the assets transferred to the trust. It is the responsibility of the disabled individual to provide proof of the amounts that the non-profit association which managed the pooled trust paid for expenses to meet the needs of the individual during this period.

Examples: A pooled trust is established for a disabled individual, age 68. For 10 months, the individual deposits his monthly excess income of $825 into the trust. While in the community, community budgeting applies and the $825 is exempt as countable income. Then the individual is institutionalized and requires coverage for nursing home care. Under chronic care budgeting, the income deposited into the trust is countable as part of the individual's net available monthly income (NAMI). Since the individual was over age 65 when the deposits were made into the pooled trust, the income deposits are treated as a transfer ($825 x 10 = $8,250).

<u>Situation 1</u>. The individual provides proof that the non-profit association managing the pooled trust paid $700 monthly for rent and $125 monthly for household utilities. The total monthly expenses paid by the non-profit association equal the monthly income deposited into the pooled trust. The transfers are, therefore, considered to be compensated transfers.

Situation 2. The individual demonstrates that the non-profit association paid $600 per month for rent and $100 per month for household utilities (totaling $700 per month, $7,000 for 10 months). No other payments were made for the individual's benefit. Of the $8,250 deposited into the trust, $7,000 is considered to be compensated. The remaining $1,250 is uncompensated and subject to a transfer penalty.

If you have any questions, please contact your local district support liaison.