



SOCIAL SECURITY

TEH2B

April 17, 2002

Timothy Pawol Esquire
Executive Director
The Family Trust
711 Bingham Street
Pittsburgh, Pennsylvania 15203-1007

Dear Mr. Pawol:

Commissioner Barnhart has asked me to respond to your inquiry concerning the Social Security Administration's policy regarding the ability of a representative payee to place a beneficiary's assets in a Medicaid qualified trust to prevent the beneficiary from becoming ineligible for Supplemental Security Income (SSI) and Medicaid benefits.

For many years, Social Security policy did not allow a representative payee to transfer Social Security benefits into a trust. As a result of changes in the law and litigation, we reconsidered that policy. Because of recent legislative changes involving trust policy and their effect on the various provisions of the Social Security Act, we have not communicated the most recent policy on a representative payee using a beneficiary's benefits to establish a trust to all our offices. We apologize for any inconvenience we caused. We will be distributing current information to all offices very soon.

Our policy now permits a representative payee to use both Social Security and SSI payments to establish trusts, provided certain criteria are met. It is permissible for a payee to transfer Social Security or SSI payments into a trust provided:

- Establishing the trust is in the beneficiary's best interest;
- The trust is established for no other purpose than the use and benefit of the beneficiary, to meet the beneficiary's current and reasonably foreseeable needs; and
- The Social Security/SSI recipient is the sole trust beneficiary during his or her lifetime.

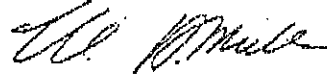
All of these requirements must be met, and a decision made based on the facts in the individual case. Representative payees wishing to establish a trust on behalf of a beneficiary should submit a copy of the trust document to the local Social Security office for approval.

2

We have notified the representatives in our Mount Lebanon Social Security Office of the current policy. Affected representative payees should recontact that office.

Please let us know if we can be of further assistance.

Sincerely,



Charles H. Mullen
Associate Commissioner
Office of Public Inquiries