

Ontario Works Policy Directives

4.10 Funds Held in Trust

Legislative Authority

Section 7(3) of the Act.

Sections 14(1), 15.1, 17(2), 32, 38, 39, 62(3) and 85 of Regulation 134/98.

Audit Requirements

Funds held in trust are documented and copies of documentation showing funds held in trust are on file.

Asset levels are adhered to and applied consistently and fairly in accordance with provincial standards.

Random file reviews are completed to ensure that the above information is documented and filed accordingly.

Application of Policy

There are various types of trust accounts and consideration for whether it is an asset depends on its type. The most common types and their treatment are described below.

Non-Accessible Funds

If a trust fund is not accessible to the applicant or recipient because of the terms of the trust, then it is not considered an asset.

If necessary, the Administrator or the applicant or recipient may seek legal advice in order to determine if the funds may be made available from the trust.

Office of the Children's Lawyer Trusts

In some cases, funds awarded by a court are in trust with the Ontario Court (General Division) for dependent children. The Administrator must require the applicant or recipient to write to the Office of the Children's Lawyer who administers the funds and request that an application to the court be made for a disbursement from the trust fund in order to help the dependents.

If funds are released, the money is generally paid on a quarterly basis. The funds are considered income in the month intended rather than in the month received.

If a request to release funds is refused, the funds are not considered an asset and no further action to access the funds is required.

Private Trusts (Executor)

An executor, trustee or committee may have responsibility for administering a private trust. If the trustee or other responsible party is given power to encroach on capital, then all of the funds are available and considered an asset when determining eligibility for assistance. If the trustee or other responsible party can only pay out income, then the capital is not available and the trust fund is not considered an asset. The applicant or recipient is required to provide information regarding the balance and release of all such funds.

Public Guardian and Trustee Trusts

The Office of the Public Guardian and Trustee (OPGT) administers the assets and/or income of some people who reside in psychiatric facilities, as well as out-patients of these facilities. The assets and/or income are used to cover all living expenses on behalf of the applicant or recipient until such time as the funds (provided by the OPGT) are below the asset limit of the applicant or recipient.