

**§ 36D-6. Gifts, Community Third Party or Pooled Trust surplus trust funds.**

(a) Community Third Party and Pooled Trusts may accept gifts and use surplus trust funds to meet reasonable start-up costs and reduce the charges to the trust for the cost of administration and for the purpose of qualifying as beneficiary any indigent person whose family members lack the resources to make a full contribution on that person's behalf. A maximum of fifty percent (50%) of the surplus trust funds may be retained in the Community Third Party or Pooled Trust account for this purpose as well as to cover administrative costs. Gifts made to the Community Third Party or Pooled Trust for an unspecified purpose shall be used by the trust either to qualify indigent persons whose families lack the means to qualify them as beneficiaries of the trust or to meet any reasonable start-up or administrative costs that the trust incurs.

(b) For Community Third Party Trusts, remaining surplus trust funds may be distributed to additional beneficiaries as specified in the Trust Agreement.

(c) For Medicaid Pooled Trusts, upon termination of an individual trust account, the surplus trust funds remaining in the individual account shall be used to satisfy any claims or liens of the Department, up to an amount equal to the total medical assistance paid on behalf of or to the disabled individual by the Department. The amount retained by the trust shall be determined on a sliding scale calculation, based upon the number of years the disabled individual received services from the nonprofit corporation, but in no instance shall the trust retain more than fifty percent (50%) of the surplus trust funds, unless the claims or liens of the Department are less than fifty percent (50%) of the surplus trust funds.

(d) A Medicaid Pooled Trust may not distribute surplus trust funds to any remaindermen identified in the trust document unless there are funds remaining after all claims or liens of the Department have been satisfied, nor shall it use surplus trust funds to make any charitable contribution on behalf of any beneficiary or any group or class of beneficiaries. (1991 (Reg. Sess., 1992), c. 768, s. 1; 2005-192, s. 3; 2010-118, s. 1.)