

Social Security Administration Supplemental Security Income

Notice of Reconsideration

105 Holly Hill Drive
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Office Hours: 9:00-3:30

September 17, 2002
Claim Number: 123-45-5679

Reconsideration Filed:
06/10/2002

Social Security has determined REDACTEDNAME's Trust of 2002 to be countable for Supplemental Security Income purposes. Based on information shared with Mandy Ballasy, our Systems Support Specialist, we found that REDACTEDNAME'S father, Mr. REDACTEDNAME FATHER, Sr., had no legal authority to act in reference to his adult son's assets. If the legal authority to establish the trust is under the provision of 6.1-125.15:1 (Duties of parties to joint bank accounts), then this appears to be based on the father being considered an agent or attorney-in-fact. As such, the actions of the parent to establish the trust are within the scope of that authorization and, under law, it is as though the actions have been taken by the adult child. This means that although the trust was validly established by the parent, it would not meet the Medicaid exception due to the fact that it was actually established by the adult child (through an agent, the parent). Assuming this trust was validly established, we look to the Medicaid exceptions under 1917 (d) (4) (A) and (C) [42 USC 1396 (d) (4) (A) and (C)]. The provisions of 42 USC 1382 (c) is in reference to the transfer of assets. This is applied to any claimant that transfers an asset to become eligible for Supplemental Security Income (SSI). There is an exception for any claimant who transfers the assets to a 1396p (d) (4) trust for that claimant's child who is blind or disabled. This would only apply to this trust if REDACTEDNAME FATHER (SSI claimant) established a trust for his son or daughter which is not the case in this particular situation. Therefore, Social Security concludes that the REDACTEDNAME Trust

of 2002 is hereby determined invalid and consequently, countable as a resource for Supplemental Security Income (SSI) purposes.

If You Disagree With The Decision

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If you disagree with the decision, you have the right to ask for a hearing. At the hearing, a person who has not seen your case before will look at it. That person is an Administrative Law Judge (ALJ). The ALJ will review your case and consider any new facts you have.

- o You have 60 days to ask for a hearing.
- o The 60 days start the day after you receive this letter. We assume you got this letter 5 days after the date on it unless you show us that you did not get it within the 5-day period.
- o You must have a good reason if you wait more than 60 days to ask for a hearing.
- o You have to ask for a hearing in writing. We'll ask you to sign a Form SSA-501, called "Request for Hearing." Contact one of our offices if you want help.

How The Hearing Process Works

The ALJ will mail you a letter at least 20 days before the hearing to tell you its date, time and place. The letter will explain the law in your case and tell you what has to be decided. Since the ALJ will review all the facts in your case, it is important that you give us any new facts as soon as you can.

The hearing is your chance to tell the ALJ why you disagree with the decision in your case. You can give the ALJ new evidence and bring people to testify for you. The ALJ also can require people to bring important papers to your hearing and give facts about your case. You can question these people at your hearing.

Please read the enclosed pamphlet "Your Right To An Administrative Law Judge Hearing And Appeals Council Review Of Your Social Security Case." It has more information about the hearing.

It Is Important To Go To The Hearing

It is very important that you go to the hearing. If for any reason you can't go, contact the ALJ as soon as possible before the hearing and explain why. The ALJ will reschedule the hearing if you have a good reason.

If you don't go to the hearing and don't have a good reason for not going, the ALJ may dismiss your request for a hearing.

If You Want Help With Your Hearing

You can have a friend, lawyer or someone else help you. There are groups that can help you find a lawyer or give you free legal services if you qualify. There are also lawyers who do not charge unless you win your appeal. Your local Social Security office has a list of groups that can help you with your hearing.

If you get someone to help you, you should let us know. If you hire someone, we must approve the fee before he or she can collect it.

New Application

You have the right to file an application at any time, but filing a new application is not the same as appealing this decision. If you disagree with this decision and you file a new application instead of appealing, you might lose some benefits, or not qualify for any benefits. So, if you disagree with this decision, you should file an appeal within 60 days.

If You Have Any Questions

If you have any questions, you may call, write, or visit any Social Security office. If you call or visit our office, please have this letter with you and ask for Ms. Michaels. The telephone number is shown above.

SSA Representative

Enclosure(s):

SSA Pub. No. 70-10281

cc: Mr. REDACTEDNAME FATHER For
REDACTEDNAME FATHER