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April 23, 2010

VIA REGULAR MAIL

Jason Frank
President
First Maryland Disability Trust, Inc.
1400 Front Avenue
Suite 200
Lutherville, Maryland 21093

Re: First Maryland Disability Trust

Dear Mr. Frank:

Thank you for your letter dated February 3, 2010 regarding the permissibility of a disabled beneficiary 65 years of age and older transferring assets from his or her special needs trust into a First Maryland Disability Trust (a pooled trust) sub-account without penalty. I have reviewed this complicated and nuanced area of law and agree that, as a matter of policy, there is no age limitation imposed by existing federal or state law on who may transfer assets into a sub-account of a pooled trust. Accordingly, a disabled beneficiary 65 years of age and older may transfer assets into an approved pooled trust sub-account without penalty.

This general interpretive statement of law, however, does not address the permissibility of transferring assets from a special needs trust to a pooled trust, nor does it address the legitimacy under state law of any specific special needs trust or pooled trust. All such issues must first be reviewed and approved on a case-by-case basis by the Office of the Attorney General for the assets to be excluded from the beneficiary's resources for Medical Assistance eligibility determination purposes.

Please let me know if you have any questions about the above.

Sincerely,

Meredith L. Borden
Assistant Attorney General

cc: Sen. Delores Kelley
Howard Hettleman, DHMH
Lorie Mayorga, DHMH