

## **GLOSSARY OF PUBLIC BENEFIT TERMS AND RESOURCES<sup>1</sup>**

**ABLE-** The Achieving a Better Life Experience Act (ABLE Act), signed into law on 12/19/14, is federal legislation that allows individuals with disabilities to open tax-free savings accounts to cover qualified expenses such as education, housing, and transportation. 26 U.S.C. § 529A.

**ADLs-** Activities of Daily Living (ADLs) includes tasks such as eating, toileting, grooming, dressing, bathing, transferring, and continence. 42 U.S.C. § 1396n(k)(6).

**CDB-** Childhood Disability Benefits (CDBs) are payable to some adults who are children of workers covered by Social Security. To be eligible, the adult child must be unmarried, age 18 or older, and has had a disability before the age of 22. POMS DI 10115.001; 20 C.F.R. § 404.350(b).children with disabilities when recipients will be rolled over to CDB, based on the parent's

CDB benefits are not means-tested.

**COBRA-** The Consolidated Omnibus Budget Reconciliation Act of 1985 allows eligible workers, their spouses, and their dependents to maintain previously existing health coverage for a period of time following certain “triggering events” provided they continue to pay the premiums. COBRA provides for 18 months of additional coverage; most states have adopted regulations allowing coverage to extend to 29 months.

**CHIP-** The Children’s Health Insurance Program (CHIP) is an insurance program jointly funded by the state and federal government and administered by the states that provides health coverage to low-income children and, in some states, to pregnant women in families who earn too much income to qualify for Medicaid but cannot afford to purchase private health insurance coverage. 42 U.S.C. Ch. 7, Subchapter XXI. For more information visit [Medicaid.gov](http://Medicaid.gov).

**MEDICARE PART D DONUT HOLE-** Under Medicare Part D, the coverage gap (a.k.a. the “donut hole”) is a period where an individual pays higher cost sharing for prescription drugs. In 2015, the coverage gap begins after an individual spends \$2,960 on covered drugs, and once in the coverage gap, individuals will pay 45% of the costs for covered brand-name prescription

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drugs. 42 U.S.C. § 1395w-114. Under the Affordable Care Act, the donut hole is expected to be eliminated by 2020. For more information visit [Medicare.gov](http://Medicare.gov).

**CMS-** Centers for Medicare and Medicaid (CMS) is the federal agency part of the Department of Health and Human Services (HHS) that administers Medicare, Medicaid, CHIP, and parts of the Affordable Care Act (ACA). CMS was formally known as Health Care Financing Administration (HCFA). . For more information visit [CMS.gov](http://CMS.gov).the Health Care Financing Administr

**CSRA-** Community Spouse Resource Allowance (CSRA) was created under the Medicare Catastrophic Coverage Act (MCCA), which was passed by Congress in 1988 to prevent spousal impoverishment for the Community Spouse (the spouse still living in the community and not in a long term care facility). Under CSRA rules, a certain amount of the couple's combined resources is protected for the community spouse. In 2015, the maximum resource standard for the community spouse is \$119,220. 42 U.S.C. § 1396r-5. For more information visit [Medicaid.gov](http://Medicaid.gov).

**CUSTODIAL CARE-** Custodial care includes non-skilled personal care, like help with activities of daily living (ADLs) bathing, dressing, eating, getting in or out of a bed or chair, moving around, and using the bathroom. Medicare does not pay for custodial care, except within the scope of services for hospice care. POMS HI 00620.130. Medicaid covers long term care services, including custodial care in nursing homes and at home. 42 U.S.C. § 1396d(7)-(8).

**(d)(4)(A) SNT** - A self-settled, first party “(d)(4)(A)” SNT is a trust that meets the statutory requirements as proscribed under 42 U.S.C. § 1396p(d)(4)(A). The trust must be for the sole benefit of the beneficiary, and subject to a state Medicaid pay-back provision. Upon the beneficiary's death or the termination of the trust, if funds remain, an amount equal to the total amount of medical assistance paid on behalf of the beneficiary under the State Medicaid plan must be reimbursed to the State. When the SNT is established and funded, the beneficiary must be under 65 and the trust may only be established by a parent, grandparent, guardian, or court. The trust is treated as an exempt asset for Medicaid eligibility purposes, and a transfer to the trust, by a Medicaid applicant, is an exempt transfer. 42 U.S.C. § 1396p(c)(3)(A).



**(d)(4)(C) POOLED SNT-** A pooled SNT established under 42 U.S.C. § 1396p(d)(4)(C) is managed and created by a non-profit association, that maintains separate accounts for multiple beneficiaries. All beneficiaries' funds are pooled for investment purposes and the pooled trust serves as Trustee, managing distributions in accordance with federal and state laws and regulations. The beneficiary must have a disability as defined in 42 U.S.C. § 1382c(a)(3). The accounts in the trust are established solely for the benefit of the individual, and can be established by the parent, grandparent, legal guardian, court, or by the individual herself. Upon the beneficiary's death, of the remaining account, an amount equal to the total amount of medical assistance paid on behalf of the beneficiary under the State plan will be paid to the State.

Note regarding Medicaid Payback trusts (d)(4)(A) and (d)(4)(C): Federal estate recovery programs provide that estate recovery applies only when payment of Medicaid assistance was made for the benefit of recipients who are 55 and older and only for assistance covering nursing homes, HCBS, related hospital and prescription drug services or Medicare cost sharing. However, the creation and funding of a payback Special Needs Trust creates a right of reimbursement for all Medicaid benefits received during the beneficiary's lifetime. "Medicaid payback may also not be limited to any particular period of time, i.e. payback cannot be limited to the period after establishment of the trust." 42 U.S.C. § 1396p(b).

**DEEMING-** is the process of considering another person's income and resources to be available to an individual applying for or receiving government benefits, if that person is responsible for the applicant's or recipient's income. 20 C.F.R. §§ 416.1160, 416.1202. POMS SI 01310.001. SSI Handbook 2167.

**DISABILITY-** Having a disability determination approved by the Social Security Administration (or another authorized agency in very limited circumstances) is a pre-requisite for a SNT. A disability for Social Security purposes is defined as the inability to engage in substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment that can be expected to result in death or to last for a continuous period of no less

than 12 months. There are special rules that apply for workers over the age of 44 whose disability is based on blindness. 42 U.S.C. § 423(d)(1).

**DME-** Durable Medical Equipment (DME) are equipment and supplies ordered by a health care provider that can withstand repeated use and are primarily and customarily used to serve a medical purpose. Coverage for DME may include oxygen equipment, wheelchairs, crutches, or blood testing strips for diabetics. POMS HI 00610.200. For more information visit Healthcare.gov.

**ESTATE RECOVERY-** Under the congressional mandate that every state adopt a program to recover Medicaid expenditures from the estates of first party Medicaid recipients, states can attach liens to personal or certain real property to seek recovery for Medicaid expenses. 42 U.S.C. § 1396p(b)(1).

The Federal Poverty Level (FPL) is an income level used to determine eligibility for certain programs and benefits. The FPL is determined annually by HHS and defines the amount of annual income which constitutes “poverty” in the United States. For 2016, the FPL is not going to reflect a cost-of-living adjustment and will remain the same as the 2015 figures. The FPL for individuals is \$11,770, and \$24,250 for a family of 4. For more information visit Healthcare.gov. or SSA.gov.

**HCBS-** The Home and Community-Based Services (HCBS) program is a Medicaid state waiver program that provides services to functionally disabled elderly individuals. Services may include, but are not limited to, home health aide services, personal care services, nursing care services, respite care, and adult day care. 42 U.S.C. § 1396t. Although HCBS waivers are optional, nearly all states (with the exception of Arizona) offer at least one HCBS waiver program. To determine whether a proposed change in service or service provision would be beneficial, some waivers are established for a limited period of time. For more information visit CMS.gov.