

Chapter 14: Administration of Income Support

(vii) Payment Methods

(b) Payment to a Trustee

Intent:	To provide direction on how to assist individuals who require a third party to manage their financial affairs.
Act: (if applicable)	<p>20. (1) Where</p> <p style="padding-left: 40px;">(a) an applicant or recipient requests; or</p> <p style="padding-left: 40px;">(b) an officer determines, based on the criteria set out in the regulations, that an applicant or a recipient is temporarily or permanently incapable of managing his or her financial affairs, an officer may direct that the income support, in whole or in part, be paid to another person on behalf of the recipient, and where a person has not been designated, an officer may refuse to release the income support until a person is designated.</p> <p>(2) The person to whom income support is paid under subsection (1) shall be considered to be a trustee of the recipient and shall use the income support to the benefit of the person in respect of whom it was granted, and where that person fails to do so, he or she is guilty of an offence.</p>
Regulations:	<p>47. Whether an applicant or recipient is permanently or temporarily incapable of managing his or her financial affairs shall be determined by an officer based on an assessment of the applicant or recipient which shall include</p> <p style="padding-left: 40px;">(a) a recommendation by the applicant's or recipient's parents, guardians or others as the minister may determine, together with an opinion by an approved professional with supporting documentation;</p> <p style="padding-left: 40px;">(b) an opinion by an approved professional alone, with supporting documentation; or</p> <p style="padding-left: 40px;">(c) a determination by the court.</p>
Overview: (if applicable)	N/A

Policy:

- Some individuals, such as persons with physical, social, psychiatric or intellectual disabilities; may be unable to manage their financial affairs. In these cases, a trustee may apply for and receive Income Support benefits on their behalf.
 - The need for a trustee is defined in Regulation 47 and must be established based on:
 - a request by parents or guardians or others; accompanied by a recommendation from an approved professional with supporting documentation,
 - a recommendation from an approved professional alone, with supporting documentation, or
 - a determination by the court.
 - Approved professionals includes a lawyer, physician, nurse practitioner or social worker.
 - The family is usually the first resource to provide trustee services for managing a recipient's Income Support benefits.
 - If no family member is able to provide this service, a non-family member may be a trustee. If that is not possible, the legal system can appoint a trustee.
 - Any responsible person who is prepared to administer Income Support benefits in the best interest of a recipient may act as trustee.
 - Departmental employees should not assume the role of trustee on behalf of Income Support recipients, unless they are family members or close personal contacts. In these instances, their supervisor should be notified, and staff from a separate office should manage the file to ensure program integrity.
 - The trustee is responsible for managing the recipient's financial affairs including all bill payments such as rent, utilities and groceries. They should also be the sole point of contact in relation to the applicant's/recipient's Income Support benefits.
 - When a trustee manages funds on behalf of a recipient, the trustee assumes full responsibility for the administration of all
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Income Support benefits provided to the recipient. The trustee can be held liable of an offence under Section 20(2) of the Income and Employment Support Act if the recipient's funds are not utilized to ensure their wellbeing.

- Recipients with trustees can still have funds forwarded directly to third parties such as Newfoundland Power or landlords.
- Trustees can have income support payments directly deposited into their bank account on behalf of the recipient, or set up a separate bank account on the recipient's behalf.
- Trustees must notify the Department of any changes in the recipient's circumstances, keep any necessary records and provide any information to the Department upon request. This includes the completion of all forms/declarations during the review process.
- If there is misuse of the recipient's Income Support benefits by a trustee including a failure to use the benefits for the recipient's care, the trustee may be personally responsible for the repayment of any debt owed the Crown.

Procedure: Client Services Officer:

Courts

- When the courts establish a requirement for a trustee, ensure a copy of the legal document is placed in the electronic file.

Family and/or Approved Professional

- When a trustee is requested and recommended by family and/or an approved professional, ensure the following documents are received and added to the electronic file:
 - A signed Application and Affidavit of Trustee (Form #14-721) sworn in the presence of a barrister/solicitor, Notary Public, Justice of the Peace or Commissioner for Oaths.
 - Medical or legal information that supports the individual's requirement for assistance managing their financial affairs

- A signed Declaration of an Approved Professional (lawyer, physician, social worker or nurse practitioner) included with form #14-721
- Ensure the trustee is fully aware of their responsibilities in relation to receiving Income Support benefits on behalf of the recipient. Section 20(2) of the Act notes “The person to whom income support is paid under subsection (1) shall be considered to be a trustee of the recipient and shall use the income support to the benefit of the person in respect of whom it was granted, and where that person fails to do so, he or she is guilty of an offence.”
 - A Letter to the Trustee included under Tools and Resources – Client Letters, outlining their responsibilities should be forwarded as confirmation.
- To confirm the identity of the trustee, verification of their address and contact information should be added to the electronic file.
 - KIV for up to 30 days for required information, if not provided, suspend payments.
- The trustee should provide all information necessary to confirm the recipient’s ongoing eligibility during the review process.
- An approved professional must confirm, on the Declaration of an Approved Professional form, whether the trusteeship is temporary or permanent. In both instances, legal or medical information must accompany the Declaration that clearly outlines the recipient’s requirement for assistance with their finances.
- When Trusteeships are temporarily established, cases should be KIV’d in line with the date noted on the Declaration of an Approved Professional form (#14-721).
 - The trusteeship should end effective the date noted, and the trustee should be removed from the recipient’s file.
 - If the trustee/recipient requests an extension of the trusteeship, the following documents must be updated and added to the electronic file:
 - A signed Application and Affidavit of Trustee (included on Form #14-721) sworn in the presence

	<p>of a barrister/solicitor, Notary Public, Justice of the Peace or Commissioner for Oaths.</p> <ul style="list-style-type: none"> ○ Updated medical or legal information that supports the individual's requirement for assistance managing their financial affairs ○ A signed Declaration of an Approved Professional (lawyer, physician, social worker or nurse practitioner) included with Form 14-721 <ul style="list-style-type: none"> ● When completing eligibility reviews for recipients with trustees, the CSO should ensure that the recipient's financial needs are met, including payment of bills. ● If a recipient or trustee contacts the Department at any time indicating that the recipient is able to manage their financial affairs and no longer requires a trustee, medical and/or legal information supporting the request should be added to the recipient's file, and the trustee should be removed.
Authority Level:	Client Services Officer
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