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San Bernardino County Employees' Retirement Association

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Area	Benefits
Applicability	SBCERA systemwide

Deposits Into Income Only (Miller) Trusts

Benefits Policy No. 035

Background:

An income only or Miller trust is used to allow a person to qualify for Medicaid benefits. The trust is irrevocable and is in effect until the death of the member. Income, including but not limited to Social Security and retirement benefits, is deposited into the trust bank account. The account is then used to pay for the member's needs, including long-term residential nursing home care. Depositing SBCERA benefits into income only trusts would not violate any of the IRS tax-qualification rules that apply to SBCERA.

Policy:

Deposit of SBCERA retirement benefits into an income only trust is not a violation of the CERL anti-assignment provisions because the funds are being deposited into an account that is established for the sole benefit of the retired member. The member is dependent upon the retirement income and may not qualify for needed additional government benefits if retirement benefits are not deposited into the trust account. Therefore, deposits into an income only trust are permissible.

Procedure:

Any request to have funds deposited into an income only or Miller trust must include the following documents:

1. The trust document.
2. Banking information including the account and routing numbers, name on the account, and

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any co-owners of the account.

3. Power of Attorney, conservatorship, or guardianship documents showing that the person establishing the trust has proper authority.
4. Any court orders establishing the conservatorship or guardianship and letters of conservatorship or guardianship.

Once all documents have been collected, the documents should be sent to Legal Services for review. Legal Services will provide a written opinion on the validity of the trust and provide further instructions to staff regarding the trust.

SBCERA pays the full amount of the member's allowance to the member in the month the member dies. The final payment may be paid to the trust to cover final expenses of the member. There is no overpayment if the final payment from SBCERA is made in the month the member dies. If any additional payments are made after the month the member dies, such payments will be overpayments. Any overpayments to the trust will be recovered by SBCERA from the trust. For example:

- If a member receives \$2,000 per month and dies on March 15, the \$2,000 payment made to the trust on March 31 is not an overpayment, and SBCERA will not make any efforts to stop or collect that payment.
- However, if a \$2,000 payment is made on April 30, and May 31, SBCERA will seek to collect \$4,000 from the trust due to the overpayments made in April and May.

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Applicability

SBCERA, SBCERA Internal