

Medicaid Emergency:

Qualified Income Trust to Save the Day!

If you received a letter from the Ohio Department of Medicaid, telling you your Medicaid Nursing Home Benefits will end soon, and advising you to create a *Qualified Income Trust* (also called a Miller Trust), you need to take action immediately.

That notice is government speak for: “Your nursing home benefits will end if your monthly income is above the new limit.” The new limit is *lower than the old limit*.

Put another way, you qualified for Medicaid Nursing Home Benefits under the old rules, but you do not qualify under the new rules, *unless you take action*.

If anyone you know has received that notice, they also need to take action right away.

Who Needs to Know?

Anyone involved with Medicaid Nursing Home Benefits should be aware of the Qualified Income Trust as a tool to avoid termination as a result of the new income rules in Ohio. Some examples:

1. Medicaid recipients,
2. Nursing home residents,
3. Designated representatives,
4. Agents under power of attorneys,
5. Guardians,
6. Nursing home staff members.

A Big Change

The Ohio Department of Medicaid looks at your monthly income to determine whether or not you qualify for Medicaid Nursing Home Benefits. If your income is too high, you do not qualify for benefits.

In the past, Ohio has used the State of Ohio income levels to determine who may receive Medicaid Nursing Home Benefits.

Beginning July 1, 2016, Ohio will change that rule, and will begin using the less generous federal income guidelines to determine who may receive Medicaid Nursing Home Benefits.

You Need to Act

If your income is too high under the new rules, you can avoid losing Medicaid Nursing Home Benefits by creating a Qualified Income Trust.

A Qualified Income Trust is a special trust, approved by the Ohio Medicaid Department, for one very special purpose.

That Trust is designed to:

1. receive your income each month,
2. pay what is allowed,
3. retain the rest, and
4. allow you to keep your benefits.

It is designed and it operates with a blend of federal laws and regulations and State of Ohio laws and regulations concerning Medicaid and the operation of trusts.

Twelve Steps: Creating and Managing a Qualified Income Trust

If you or a loved one's Medicaid Nursing Home Benefits are threatened by the new, lower, income caps, a Qualified Income Trust, properly created and managed, can solve that problem.

It takes a little effort, but you can do it. Here are the basic steps required to set up and operate a Qualified Income Trust.

1. **Attorney:** Seek the counsel of an attorney who is knowledgeable in the creation of Qualified Income Trusts.
2. **Settlor:** Decide who is going to create the trust. This person is referred to as the Settlor. The Settlor might be any of the following:
 - a. Medicaid Recipient
 - b. Spouse of the Medicaid Recipient
 - c. Authorized Representative
 - d. Power of Attorney Agent
 - e. Guardian appointed by a Court
 - f. Another person selected by the Medicaid Recipient or the Court
3. **Trustee:** Decide who is going to serve as Trustee, to handle the business of the Trust. The Trustee might be any of the following:
 - a. Spouse of the Medicaid Recipient
 - b. The Authorized Representative
 - c. Power of Attorney Agent
 - d. Guardian appointed by a Court
 - e. Another person selected by the Medicaid Recipient or the Court
 - f. NOTE, the Medicaid recipient, who is referred to as the Primary Beneficiary in the Qualified Income Trust, CANNOT also serve as Trustee.
4. **Trust:** Create the Qualified Income Trust, along with the required ancillary documents.
5. **Credentials:** The Qualified Income Trust issues proper credentials to the Trustee to conduct business on behalf of the Trust.
6. **Present:** Present the Qualified Income Trust to the Medicaid recipient's Case Worker for approval, and to keep the Case Worker informed of the disposition of the Medicaid recipient's funds.
7. **TIN:** Obtain a Taxpayer Identification Number for the Qualified Income Trust.
8. **Checking Account:** Establish a Fiduciary Checking Account that complies with Ohio laws on fiduciary accounts and Medicaid rules as to the operation of such an account, to receive transfers of the resident's income from the resident's account to the Qualified Income Trust, and to facilitate authorized expenditures.

9. **Transfer:** Transfer the Medicaid recipient's income into the Fiduciary Checking Account each month.
10. **Pay:** Pay out of the Fiduciary Checking Account only those charges that are permitted by the Medicaid Law and the terms of the Qualified Income Trust.
11. **Report:** Report to the Medicaid recipient's Case Worker at least once per year on all deposits into the Fiduciary Checking Account and on all expenditures from that account, and on the balance remaining in that account.
12. **Termination:** After the Medicaid recipient passes away, there are strict procedures for what the Trustee must do to pay over the funds remaining in the account, to close the account, and to terminate the Qualified Income Trust.

The operation of your Qualified Income Trust will be guided, over the years, by:

1. your Case Worker,
2. by changes in Medicaid laws, and
3. by changes in your circumstances.

The Trustee, the Medicaid Recipient, the Staff of the long term care facility, and the Medicaid Recipient's family must remain vigilant, watching for changes that may alter the operation of your Qualified Income Trust.

The End Result

Individuals with too much income can keep their Medicaid Nursing Home Benefits if they take action and create a Qualified Income Trust.

The inconvenience of creating and operating a Qualified Income Trust is a small price to pay for keeping Medicaid nursing home benefits.

We can help.

With knowledgeable legal counsel, and some patience, you and your family can create and manage the Qualified Income Trust.

We can help by:

1. creating your Qualified Income Trust to receive your income and keep you qualified for Medicaid Nursing Home Benefits, and by
2. coaching you and your family in the operation of that trust.

We offer a free initial consultation to discuss your or your loved one's situation.

It costs you nothing to learn how a Qualified Income Trust might benefit you and your family.

The First Step

The first step is to phone Lutz Attorneys for a consultation to discuss how a Qualified Income Trust might protect you or your loved ones receiving Ohio Medicaid Long Term Care Benefits.

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