Family Checklist for Indiana Miller Trusts

Questions? Call Doug at 574/291-0022
or email 76066.515@CompuServe.com or fax 574/291-0024
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- ❑ If you have 1 cent too much income, you cannot get Medicaid. Period. Can't even spend the excess on your care and qualify! So you put the excess in your Miller Trust, take it right back out, and Medicaid is happy. Yes it is crazy, Rube Goldberg, Alice in Wonderland, Hokey-Pokey. We all have to get over that!

- ❑ [Get it done by May 1] Choose someone to be your Trustee, and someone else for your backup Trustee. **You cannot be your own Trustee**.

  You will want someone you can trust (that's exactly why it is called a "trust"), because your ability to stay on Medicaid is at stake.

  It is not a hard job (put your income into the trust, then write checks for what is to be paid out), but the person must account each year for every penny in and every penny out, so they should be someone who can handle details.

  Trustee:

  Backup Trustee:

- ❑ [Get it done by May 1] Decide who will be "Settlor," the one who creates the trust.

  Usually it will be the Medicaid recipient. If the Medicaid recipient is unable to know what they are signing, then it could be one of these people acting on behalf of the Grantor/Medicaid recipient: the person serving as agent under a POA (Power of Attorney), a court appointed guardian, an Authorized Representative for Medicaid, a representative payee for Social Security or similar person for other public benefits, or someone with the legal ability to move the person's income.

<u>Who will sign for Settlor</u>:

- ❑ [Get it done by May 1] Decide who gets what's left in the trust after Medicaid is paid back.

  <u>Beneficiary or beneficiaries after recipient and Medicaid</u>:

- ❑ [Get it done by May 1] Gather your income information.
  - ❑ Social Security benefit letter ("pay raise letter") for the current year
  - ❑ Pension benefit letter or pay stub for current year or month
  - ❑ Annuity benefit letter
  - ❑ Current account statements showing interest income, if any
  - ❑ Anything else that clearly shows the source of the income and how much is due, before any withholding
- ❑ [Get it done by May 1] Gather your medical insurance expense information like Medicare supplement policy, Medicare Advantage policy, Medicare Part D prescription drug policy, retiree health insurance, etc.
- ❑ [Get it done by May 1] Get your latest notice from Medicaid showing your nursing home liability.
- ❑ [Get it done by May 1] Get your bar-coded cover sheet for faxing to Medicaid.
- ❑ [Get it done by May 1] Fill out and sign your Miller Trust. Double check your information before signing. Make extra copies of the signed Trust, and give them to the nursing home, your attorney, and your trusted family members.
- ❑ [Get it done by May 1] Set up a new bank account in the name "**<u>[Medicaid recipient's name] Qualified Income Trust.</u>**"

  It is unwise to use the name "Miller Trust" in the title because a clerk might think

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your last name is Miller! That is a problem unless your last name is Miller!

This is an entirely new and separate bank account. Your present bank account should be kept and **not** closed out. Yes, you will probably have 2 bank accounts.

The trust tax identification number is the same as the **recipient's Social Security number**. If the bank personnel insist on something else, have them call me and I will get them the IRS instruction page.

All banks ought to be able to set up such an account. However, you should try to find one to set it up as a no fee account. For most folks, there will be only two transactions each month: one deposit and one check.

Some banks might require a minimum amount to keep the account open. Try to find a bank that lets you keep this low, say $10 or $20.

Consider setting up an auto transfer between accounts for non-changing amounts, but be sure to change the instructions if the income or SIL changes.

Name of Bank:

- ❑ [Get it done by May 15] Fax to Medicaid 1-800-403-0864 :
    - ❑ Bar coded cover sheet choosing "Other" and write in "Qualified Income Trust and bank account documents for Qualified Income Trust"
    - ❑ A copy of the completed and signed QIT
    - ❑ A copy of the documents showing you have set up the bank account in the name of your QIT, and how much you deposited
    - ❑ Your signed letter attesting deposits will be made beginning in June
- ❑ Here's how to compute the minimum amount that goes into your Miller Trust:

  (You only need a Miller Trust if your income is above $2,163.00/month in 2014.) For example, if your income, such as Social Security and pensions, all **before deductions** (such as for Medicare Part B premium of $104.90), is $2,200.00, then you need to put **at least** $64.00 into your Miller Trust.
- ❑ Here are some examples of what can be paid out of your Miller Trust:

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- ❑ Your monthly liability to the nursing home
- ❑ If you are married, your spouse's monthly income allocation
- ❑ Health insurance premiums
- ❑ Medical expenses not covered by Medicaid
- ❑ Over the counter medicines if you have a doctor's note saying you need them
- ❑ Medical care
- ❑ Old medical bills from before you were on Medicaid, but only if Medicaid has **not** already budgeted for it
- ❑ Prescription co-payments
- ❑ Not so much: administration costs, legal fees, and bank service charges

❑ Records your Trustee **must** keep:

- ❑ All bank statements
- ❑ A ledger or check register showing every penny in and every penny out
- ❑ All receipts and invoices
- ❑ Doctor notes, such as for over the counter meds

❑ At the end of the year, when you get your new Social Security and other pension figures, you will need to recompute the amount to go to your Miller Trust.

❑ At the end of the year when the new SSI "Special Income Level" is announced, you will need to again recompute the amount to go to your Miller Trust.

❑ When the Medicaid recipient dies, all funds in the account go to Medicaid in most cases. So it is wise to spend money out as soon as it comes in.

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Notes for REAL Services, Inc. Professionals:

1. Miller Trusts are also called Qualified Income Trust, QIT, Income Cap Trust, Income Assignment Trust, and (d)(4)(B) Trust (42 USC 1396p(d)(4)(B)).
2. Number needed (non Waiver): St. Joseph 112; Elkhart 88; LaPorte 10; Marshall 26; Kosciusko 31; plus all new nursing home clients with income above SIL.
3. For FSSA this is a work in progress. "Stay tuned." e.g., FSSA is saying QIT can use separate RFMS. Watch http://www.in.gov/fssa/ddrs/4860.htm
4. Dates:
   A. June 1, 2014: Medicaid is implementing all these changes.

   B. May, 2014: Medicaid will begin reviewing Miller Trust documentation.

   C. June 1, 2014: Income received on and after this date will need to be deposited in the Miller Trust. Can start earlier.

      1. It is necessary to place in the trust only the amount above the SIL. It seems OK to transfer more than this up to the whole income.
      2. What's optimal? All? Spousal share vs NF share?

   D. December, 2014: SIL amounts, Social Security amounts, and some pensions will change, forcing a recalculation of the amount to go into the Miller Trust.
5. QITs are still used for Waiver clients.
6. It is not considered a transfer violation to put money into, or take money out of, a Miller Trust, as long as only the Medicaid recipient's income goes in, and what comes out goes for the recipient or their spouse.
7. Cannot accumulate indefinitely, but the funds in the Miller Trust do not count against the $1,500/$2,000 limit.
8. Only the Trustee can sign checks. Grantor/Medicaid recipient may not.
9. Medicaid may or may not ask for the Trustee's annual accounting. The Grantor is entitled to it.
10. Legal fees, trust administration costs, bank fees might be proper charges if the trust allows; be careful: this could throw off the budget established by Medicaid.

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