

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1577

5 By: Representative Ladyman
6

For An Act To Be Entitled

8 AN ACT TO PROVIDE FOR A QUALIFIED INCOME TRUST, ALSO
9 KNOWN AS A "MILLER TRUST"; AND FOR OTHER PURPOSES.
10

Subtitle

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12 TO PROVIDE FOR A QUALIFIED INCOME TRUST,
13 ALSO KNOWN AS A "MILLER TRUST".
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Arkansas Code Title 28, Chapter 72, is amended to add an
20 additional subchapter to read as follows:

21 Subchapter 7- Qualified Income Trust
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23 28-72-701. Definitions.

24 As used in this subchapter:

25 (1) "Agent" means:

26 (A) A child of an applicant or recipient;

27 (B) A spouse of an applicant or recipient;

28 (C) A sibling of an applicant or recipient;

29 (D) An individual serving as attorney-in-fact under a
30 durable power of attorney for an applicant or recipient;

31 (E) An individual serving as a guardian of the estate for
32 an applicant or recipient; or

33 (F) An individual serving as a representative payee as
34 determined by the Social Security Administration for an applicant or
35 recipient;

36 (2) "Applicant" means an individual who applies to the



1 Department of Human Services for benefits that are subject to income limits
 2 for financial eligibility determination;

3 (3) "Income" means monthly income paid to an applicant or
 4 recipient from Social Security, a pension plan, or another source;

5 (4) "Qualified income trust" means an irrevocable trust that is
 6 established in accordance with 42 U.S.C. § 1396p(d)(4)(B), as it existed on
 7 January 1, 2021, to establish income eligibility for Medicaid benefits; and

8 (5) "Recipient" means an individual receiving Arkansas Medicaid
 9 benefits in a program that places income limits for the determination of
 10 financial eligibility.

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 12 28-72-702. Creation of qualified income trust.

13 (a) An applicant, recipient, or agent may create a qualified income
 14 trust for the benefit of the applicant or recipient.

15 (b) A qualified income trust created under subsection (a) of this
 16 section shall:

17 (1) Be composed only of income to the applicant or recipient and
 18 accumulated income in the qualified income trust; and

19 (2) Permit the Department of Human Services to receive residual
 20 amounts in the qualified income trust upon the death of the applicant or
 21 recipient up to an amount equal to the total medical assistance paid on
 22 behalf of the applicant or recipient.

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 24 28-72-703. Income transferred to qualified income trust.

25 (a) The income of an applicant or a recipient that is transferred into
 26 a qualified income trust shall not be considered for the purpose of
 27 determining the income or financial eligibility of the applicant or recipient
 28 for Medicaid.

29 (b) Any income of an applicant or recipient that is not transferred
 30 into a qualified income trust may be considered for the purpose of
 31 determining the income or financial eligibility of the applicant or recipient
 32 for Medicaid.

33 (c) An applicant or recipient shall not be required to transfer all of
 34 his or her income into a qualified income trust in order to meet the income
 35 and financial requirements for establishing Medicaid eligibility.

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1 28-72-704. Allowable monthly expenses paid from qualified income
2 trust.

3 The following may be paid monthly from a qualified income trust:

4 (1)(A) The personal needs expenses of the applicant or
5 recipient;

6 (B) Personal needs expenses shall not exceed the amount
7 set by Medicaid or determined by the Department of Human Services.

8 (2) Trustee fees charged by a corporate fiduciary serving as the
9 trustee of the qualified income trust;

10 (3) Bank fees charged for maintaining the qualified income trust
11 account;

12 (4) Mandatory expenses, including without limitation
13 garnishments, conservatorship or guardianship fees, court-ordered bankruptcy
14 payments, court-ordered child support, and court-ordered alimony;

15 (5) A community spouse income maintenance allowance paid if the
16 applicant or recipient:

17 (A) Is institutionalized or admitted into a long-term care
18 facility; and

19 (B) Has a spouse residing in the community;

20 (6) A dependent income maintenance allowance if the applicant or
21 recipient:

22 (A) Is institutionalized or admitted into a long-term care
23 facility; and

24 (B) Has a dependent residing in the community;

25 (7) Health insurance premiums, coinsurance, and deductibles;

26 (8) Incurred medical expenses not covered by Medicaid and
27 allowed under the Arkansas State Plan; and

28 (9) Incurred medical expenses carry forward amount for allowable
29 medical expenses not previously deducted.

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31 28-72-705. Process for amending qualified income trust.

32 A qualified income trust shall not be changed without written approval
33 from the Department of Human Services.

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