

INTERIM STUDY PROPOSAL 2021-010

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

A Bill

HOUSE BILL 1577

5
6 By: Representative Ladyman

7 Filed with: House Committee on Public Health, Welfare, and Labor
8 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

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

12
13
14 **Subtitle**

15 TO PROVIDE FOR A QUALIFIED INCOME TRUST,
16 ALSO KNOWN AS A "MILLER TRUST".

17
18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20
21 SECTION 1. Arkansas Code Title 28, Chapter 72, is amended to add an
22 additional subchapter to read as follows:

23 Subchapter 7— Qualified Income Trust

24
25 28-72-701. Definitions.

26 As used in this subchapter:

27 (1) “Agent” means:

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

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

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

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

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

1 (F) An individual serving as a representative payee as
2 determined by the Social Security Administration for an applicant or
3 recipient;

4 (2) "Applicant" means an individual who applies to the
5 Department of Human Services for benefits that are subject to income limits
6 for financial eligibility determination;

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

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

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

15
16 28-72-702. Creation of qualified income trust.

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

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

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

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

27
28 28-72-703. Income transferred to qualified income trust.

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

33 (b) Any income of an applicant or recipient that is not transferred
34 into a qualified income trust may be considered for the purpose of
35 determining the income or financial eligibility of the applicant or recipient
36 for Medicaid.

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

4
5 28-72-704. Allowable monthly expenses paid from qualified income
6 trust.

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

8 (1)(A) The personal needs expenses of the applicant or
9 recipient;

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

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

14 (3) Bank fees charged for maintaining the qualified income trust
15 account;

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

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

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

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

24 (6) A dependent income maintenance allowance if the applicant or
25 recipient:

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

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

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

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

32 (9) Incurred medical expenses carry forward amount for allowable
33 medical expenses not previously deducted.

34
35 28-72-705. Process for amending qualified income trust.

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

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

Referred by Representative Ladyman

Prepared by: JNL/JNL

1 Prepared by: JNL/JNL

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36