

I have too much income to be in the Medicaid Waiver Program. Is there anything I can do?

Yes. You need a Qualifying Income Trust.



1. I have been told that I have too much income to get Home and Community-Based services through the Medicaid waiver. What can I do?

Your income is too high for Medicaid, if your monthly income is more than \$2022.00. But you can still become eligible for the Medicaid waiver program if you use a Qualified Income Trust (or QIT). A "QIT" is a special legal arrangement for managing your income. This kind of trust is also called a "Miller" trust.

First, you will need a legal document called a "trust" document. In the trust, you will name a trusted family member or friend to be your "trustee." The trustee will manage the trust bank account and sign checks to pay bills from the account.

Once you have the trust document, your trustee will set up a special bank account in the name of the trust. Each month, you will temporarily "park" some of your income in the special bank account. The trustee may return the trust money to you as part of your "personal needs allowance." If you are married, the trustee may use the trust money to pay a "spousal allowance" to your wife or husband. Or, the trustee may pay some of your medical bills with the trust money, if approved by your Medicaid worker.

The QIT is a type of grantor trust, which means that you (the grantor) set up the trust and the money in the trust is used for your needs only, subject to the limits stated in the trust document.

2. Who can qualify for Medicaid by using Qualifying Income Trusts (QITs)?

Anyone who has too much income to qualify for the Medicaid waiver program can use a QIT to qualify, if he is otherwise eligible for Medicaid. The QIT will not be needed until your assets are below or almost below the Medicaid assets limit.

3. What is the income limit for the Medicaid waiver program?

In 2009, the income limit for a single person to get Medicaid waiver services is \$2022 per month. If your gross income is above that limit, you will need a QIT to get Medicaid. Gross income is the amount of income you get BEFORE Medicare premiums, taxes or other costs are taken out of your check.

4. How do I set up a QIT?

- An attorney who has been trained in Medicaid law can draft a trust document which sets up your Qualified Income Trust. (See question 12.)

- You must sign a trust document in front of a notary. The person you pick to be the Trustee must sign the document in front of a notary, too. If you are not well enough to handle business, your attorney-in-fact or conservator can set up the trust. (An attorney-in-fact is the person you named in your power of attorney, if you have one.)
- A special bank account must be opened for the trust. No money may be put in the account except your income (*not* resources). You are both the Grantor and the Beneficiary of the trust.
- The Trustee you name will manage the account and write checks on the account. The Trustee is the only person who can write checks on the account.
- The trust document and bank records must be given to your Medicaid worker at the Department for Human Services. The worker will confirm that your trust document and payment plan meet the Department's requirements.

5. Do I have to put all of my income in the QIT?

No, but you must put *at least* the minimum required amount. Your advisor or attorney will tell you how much your minimum amount must be.

We recommend that you keep two separate checking accounts: one for general purposes and the QIT account. Money in the QIT account can NOT be used to pay non-approved bills. QIT money is used to pay for medical bills or other related expenses, named in the trust document. (See question no. 7.) Money kept in your regular account can be used for general needs, such as utilities and food purchases.

6. How much does the Department for Human Services have to say about how the QIT money is spent?

Everything. The QIT is legal paperwork which allows you to become eligible for Medicaid. Once eligibility is approved, your income must be spent the way Medicaid requires.

7. What are the rules for how I can spend my money?

According to state law, the money in a QIT may be spent only on the following things:

Your personal needs allowance (\$1348 per month);

The allowance for your spouse at home, if you are married;

Your medical expenses not covered by Medicaid, as approved by Human Services;

A banking fee of up to \$20 per month; and

The amount that you must pay toward your waivers services, if any. (This is called your Patient Liability amount.)

There are a few additional expenses that are allowed, but only if approved in advance by Medicaid.

8. Who can serve as Trustee?

You can pick anyone you trust to be your trustee. But, you cannot be your own trustee. The trustee could be a trusted family member or friend. But a public guardian or another community helper could be your trustee.

9. What if I have no one to serve as trustee? What if I can't get a QIT drawn up for some other reason?

If the trust is not done, the Medicaid application will be denied. If you are too ill or incapacitated to handle this arrangement, you will need to get a power-of-attorney done to give some one else the authority to handle banking and Medicaid business for you. Or, a conservator may need to be appointed by the court. If you have no one who is willing and able to act as conservator, the Public Conservatorship program at the local Area Agency on Aging and Disability might be able to help. However, the Public Conservatorship program cannot petition the court to get a conservatorship started.

10. When does the trust end?

The trust ends at your death -- or earlier, if you leave the waiver program, or if you no longer need Medicaid. Any money left in the QIT account will be paid to the TennCare Bureau when the trust ends. The TennCare Bureau gets all of the money left. If the account holds more money than the total payments owed to Medicaid, the remaining money goes to your estate or to whomever you name.

11. If I have to go to the nursing home, can I use a QIT to become eligible for Medicaid?

Yes.

12. Where can I find a lawyer in my area to help me with the QIT?

Your local Long Term Care District Ombudsman or Legal Services program may have a list of lawyers in your area who take this type of case. You can find your local Ombudsman at <http://www.state.tn.us/comaging/ombudsmanmap.html>.

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