



ELDER LAW AND ESTATE PLANNING

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Qualified Income Trust can help establish Medicaid eligibility if applicant's income too high

Question: I'm applying for Medicaid for my father. I've been paying for his nursing home for six months and cannot continue. His income, \$3,100 per month, is well over the income limit. I understand a Qualified Income Trust can help him qualify. How does that work?

Answer: Below are the basics, but you will need detailed guidance from an experienced Florida elder law attorney.

The current income cap for eligibility for Medicaid benefits is \$2,313. This is based on gross income, not net. For instance, if your dad receives \$3,000 from Social Security, the amount deducted from it for Medicare is counted back in for Medicaid purposes.

A Qualified Income Trust (QIT), also known as a Miller Trust, can qualify him for Medicaid, provided he meets all other requirements. Monthly income in excess of \$2,313 must go into the trust. He may keep \$130 for personal expenses. Funds may also be used for medical expenses not covered by Medicare or Medicaid. If married, some funds may be diverted to his spouse under certain conditions. The rest will go to the nursing home, as will the first \$2,313 of his income, which is why we recommend it also go in the QIT. Medicaid will cover the difference. The QIT is irrevocable and must be in place when the Medic-

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aid application is made.

If your dad is not competent to create the QIT, his agent under his Durable Power of Attorney may do so if the document gives the agent that authority. If neither condition is met, court permission will be required to create the QIT.

Medicaid is entitled to take up to the amount that it has expended when Dad dies. This is probably a moot issue because the QIT will zero out at the end of each month and likely have little or nothing in it when Dad passes.

Please seek professional legal help to avoid a mistake that would jeopardize your father's benefits. Good luck.

Joseph Karp and Jonathan Karp are Florida Elder Law and Estate Planning Attorneys. The Karp Law Firm is located in Palm Beach and St. Lucie counties. It assists clients with wills, trusts, Medicaid and VA benefits planning, special needs planning, asset preservation, probate/trust administration, estate litigation, and probate and elder law mediation.