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STATE OF NEW JERSEY
Department of Human Services
Division of Medical Assistance and Health Services

Qualified Income Trust (QIT)

Frequently Asked Questions (FAQs)

Updated April 2017

1. What is a Qualified Income Trust (QIT)?

A Qualified Income Trust (QIT), also known as a Miller Trust, is a special legal arrangement for holding a person's income. A QIT is a written trust agreement for which the trustee establishes a dedicated bank account. The income deposited into this dedicated bank account is disregarded when determining financial eligibility for Long Term Services and Supports. QITs require that **a trustee** is appointed to manage the monthly deposits and expenses and account for the funds in the trust. A trustee must be someone other than the Medicaid applicant/recipient. QIT written agreements have special conditions that must be met and are subject to the approval of, and monitoring by, the appropriate Medicaid eligibility determining agency (EDA) and the Division of Medical Assistance and Health Services (DMAHS). (See question # 6 for a simplified process.)

2. Who is required to establish a QIT in order to become Medicaid income eligible?

Individuals with monthly income above the Medicaid Only institutional income limit ($2,205 in 2017) must establish a QIT if they meet an institutional level of care and are trying to obtain Medicaid eligibility for long-term services and supports.

3. What does a QIT do?

When an individual's gross monthly income is above the Medicaid institutional income limit ($2,205 per month in 2017), some or all of the income can be placed in a QIT bank account in the month received, and then that portion of the income is not counted when determining financial eligibility for Medicaid long-term services and supports benefits (see question # 7 for more clarification). Individuals must meet all other requirements to be eligible for the Medicaid Only program including, but not limited to, the following: being Aged, Blind or Disabled; have liquid resources less than the institutional limit ($2,000); citizenship and residency requirements; and they must need an institutional level of care determined by a clinical assessment.

4. When did New Jersey begin using Qualified Income Trusts (QITs)?

New Jersey received authority from the federal government to begin using QITs on December 1, 2014. All individuals determined eligible under the Medically Needy program for long-term care prior to December 1, 2014, absent a change in circumstances, may continue using the Medically Needy program rules.

5. What are the special conditions that a QIT must meet?

- **A QIT must contain only income of the individual;**
- **Income must be deposited in the month it is received;** (see question #7 for details)
- A QIT **cannot** contain resources (such as the proceeds from the sale of real or personal property, or money from a financial account);
- A QIT must be irrevocable;
- A QIT must have a trustee to manage the administration and expenditures of the Trust as set forth in federal and state law;
- New Jersey must be the first beneficiary of all remaining funds up to the amount paid for Medicaid benefits upon the death of the Medicaid recipient;
- Income deposited into the QIT can only be paid in accordance with the post-eligibility treatment of income rules and used to pay for the individual's cost share; and,
- A QIT must be funded in the month the applicant is seeking eligibility.

6. The QIT written agreement sounds like a complicated legal document, do I need a lawyer to establish it?

DMAHS has posted on its website a QIT template that contains all of the special conditions required. The template has a fillable format for ease of use which can then be printed out. The basic information needed for the template include: the Medicaid applicant's name and address; the trustee's name and address; and information on what source/sources of income will be deposited monthly into the QIT bank account. The document must be signed by the Medicaid applicant or their Authorized Representative/ Power of Attorney, the trustee, and a witness. It must also be notarized. This can all be easily accomplished at a bank with a bank officer.

The template is located at the following website link:
http://www.state.nj.us/humanservices/dmahs/clients/mrusts.html

QITs may also be drafted for an individual by a lawyer.

ESTABLISHING AND FUNDING A QIT

7. What types of income are allowed to be deposited in a QIT?

Income such as, but not limited to, an individual's own Social Security income or pension income is deposited into the QIT in the month that it is received. An individual can direct all or some of their income to the QIT but all of the income from any source (e.g. the entire monthly amount of a pension check or the entire Social Security benefit check) must be deposited into the QIT. For example, an individual with a monthly Social Security income of $874 and a monthly pension of $1,500 would be over the income limit (total income of $2,374 is greater than the 2017 income cap of $2,205). The individual may deposit either the entire Social Security income or the entire monthly pension amount, or both, into a QIT account. Whatever amount that is deposited into the QIT is the amount that is disregarded in counting an individual's income to determine eligibility.

8. My spouse and I always share a bank account to pay our monthly bills. Can we put both of our incomes in the QIT in order to pay our bills?

The spouse's funds cannot be placed in the QIT. Any money the spouse has or receives can be deposited into the spouse's own account in order to be used to pay monthly bills.

9. What types of deposits are not allowed in a QIT?

QITs are solely for income received by the Medicaid beneficiary in the month of receipt. Income is only considered income in the month it is received. Any amount remaining is considered a resource. Resources cannot be deposited into a QIT. Resources include things like cash, funds from the sale of real or personal property, savings, or investment account. Deposits from a spouse's or any other person's income or resources are not allowed.

10. Who can establish a QIT on behalf of the beneficiary (serve as the settlor or grantor)?

- The beneficiary
- The beneficiary's legal guardian, or
- The beneficiary's Power of Attorney agent.

11. How do I open a QIT bank account and is there a special bank to go to?

A QIT bank account is set up at a bank. The DMAHS website provides guidance to the individuals going to the bank and a bank memo to provide to the bank officer. You can bring the memo to the bank to help establish these accounts. Identification is required as is the copy of the Power of Attorney document, if appropriate. It is strongly suggested that this letter is given to the bank because QIT accounts are relatively new to New Jersey, although about 23 other states use QITs. The bank letter website link can be found at:

http://www.state.nj.us/humanservices/dmahs/clients/mtrusts.html.

If the bank still needs more information, you may suggest that they contact their corporate offices for further guidance.

12. If a QIT is established and the Medicaid application takes a while to approve, should the Trust be funded during the period after the application is made?

In order to be financially eligible in any month, the individual must fund a QIT in that month. If you apply in June and want to be eligible in July, the individual's July income must be deposited in the QIT by July 31st.

13. How do we prove to the EDA that the QIT bank account has been funded?

The individual or their representative would need to show a bank deposit slip or documentation from the bank showing that the monthly income was deposited into the QIT bank account for proof of funding.

14. Is the income that is required to be deposited in the QIT required to be direct deposited or can the funds be deposited via a personal check from the account currently receiving the income?

The income does not have to be directly deposited into the QIT bank account, but it must be deposited in the same month it is received by the beneficiary in order for it not to be counted for income eligibility in that month.

15. Can income be redirected to the facility rather than the trust each month if this is where the income will end up anyway?

No, the income over $2,205 must be deposited in the QIT bank account each month and then the cost share is paid to the facility. Only income deposited in the QIT bank account can be disregarded for Medicaid eligibility. If the income is never deposited into the QIT account, the individual will be ineligible for benefits due to excess income.

16. Can income from a resident of a nursing home that would need to be deposited into a QIT account be deposited in the facility's Resident Fund Management account instead?

No, income deposited into a Resident Fund Management account is considered income and will count towards eligibility.

17. On the QIT Trust template, who is the distributee(s) in the section under “Termination” for any remaining trust property after payment to the DMAHS?

On the QIT Trust template, in the section under “Termination,” if the Medicaid recipient is competent when the QIT is being established, they may name a distributee(s) for any funds left in the QIT after DMAHS is paid in full. Otherwise, after death and payment to DMAHS, the account would be subject to probate law.

18. The QIT template that is posted on the DMAHS website indicates that bank fees are an allowable expense up to $20 per month. Is this expense going to be included on the Personal Responsibility (PR) form and is it for all living arrangements.

DMAHS allows for bank fees up to $20 per month for all living arrangements: nursing facility, assisted living, and living at home. It is considered part of the Personal Needs Allowance or Maintenance Needs Allowance on the PR form (see question #27 for more details). The actual bank fee amount is required information to include in any QIT document. PR forms outline all allowable post-eligibility expenses and now include the monthly bank fee.

19. Who is the Grantor on the QIT template document?

The Grantor is the individual who is establishing the Trust, (see question # 10). This may be the actual Medicaid applicant/recipient, or their Power of Attorney or Guardian on their behalf.

20. Are payments from long-term care insurance policies counted as income for Medicaid eligibility?

Long-term care insurance payments made directly to a facility are not counted as income for Medicaid eligibility; however, if payments are made directly to the Medicaid applicant/recipient, they are counted as income for Medicaid eligibility. In all cases, long-term care insurance payments are included in the post-eligibility treatment of income as part of the cost share to reduce the amount that DMAHS pays for an individual’s care.

TRUSTEE INFORMATION

21. Who can be a trustee and what are their responsibilities?

New Jersey law governs who can be a trustee. See N.J.S.A. 3B:11-4 et seq.

A trustee is responsible for ensuring that the monthly deposits and expenditures are made in accordance with the provisions of the trust agreement. The trustee is responsible for providing information to the EDA as requested and for annual eligibility renewal. This includes making timely monthly deposits and disbursements, and an accounting (annual or upon death of the Medicaid beneficiary) of the deposits into the QIT, the disbursements (consistent with the Medicaid beneficiary's Personal Responsibility form, see question #25), and the amount on hand. The trustee is also responsible for providing information to DMAHS for its annual review of the QIT and for any other monitoring activities.

If a new trustee is required, the previous trustee is responsible to provide a full accounting to the EDA of the QIT bank account during the period in which they were responsible for the trust.

22. Will the trustee commission be a priority disbursement on the Personal Responsibility Form (PR-1, PR-2 or PR-3)?

The trustee commission is paid **after** all post-eligibility expenses are paid out including cost share, as per federal regulations. These commissions are only available if the individual has a high enough income to have funds available in the QIT at the end of each month.

COST SHARE/ALLOWABLE EXPENSES

23. What is cost share?

Cost share is the portion of a Medicaid beneficiary's income that is required by federal regulations to be paid monthly, to offset an individual's cost of care paid by the Medicaid program. These regulations can be found at 42 CFR §§ 435.725 and 435.726.

24. Where do I pay the cost share?

Cost share is paid monthly to the nursing facility or assisted living facility in which an individual resides OR to the DMAHS, if the individual lives in the community. You will be given a document described in question #25 with this amount once you are found eligible.

25. How do I know the amount of the cost share? What is the Personal Responsibility (PR) form?

The Personal Responsibility (PR) form calculates an individual's income, allowable deductions and cost share. The PR form is distributed by the EDA to the Medicaid beneficiary/Authorized Representative, and the facility where they live within one week of the determination of eligibility. If they live at home, it will be sent to DMAHS which will collect the cost share for this living arrangement. It is the responsibility of the Medicaid beneficiary/Authorized Representative to share a copy of the PR form with the QIT trustee, if necessary.

The PR form has three different versions which represent an individual's living arrangement; a PR-1 is for a Nursing Home; a PR-2 is for an Assisted Living Facility; and a PR-3 is for home-based/community living. A new form must be created whenever an individual has a change in circumstances such as an increase or decrease in income, or if they change their living arrangement. All changes in circumstances must be reported to the appropriate EDA when they occur, as required in the Rights and Responsibilities section of the Medicaid application.

26. When will the expenses and cost share begin to be required payments?

The obligations outlined on the PR form will begin in the first month that eligibility is established.

27. How is Cost Share determined?

The Post-eligibility Treatment of Income rules outline the specific deductions that are allowed to be paid out of a Medicaid recipient's gross income before their cost share is calculated. These rules are outlined by the federal government at 42 CFR § § 435.725 and 435.726. The expenses must be deducted in the following order, from the individual's total gross income (gross income includes income disregarded in determining eligibility):

Step 1. Personal Needs Allowance (PNA) or Maintenance Needs Allowance (MNA)

- For the beneficiary residing at a Nursing Facility (NF):
  PNA of $35*
- For the beneficiary residing in an Assisted Living Facility (AL):
  MNA —
  $109.30* for PNA and
  $775.75* for room and board

OR

- For the beneficiary living at home or in the community (not AL):
  MNA of $2,205*

This allowance must be spent each month on the individual's living expenses and for their sole benefit or it will be considered a resource and count towards the $2,000 resource limit in the following month.

- **AND IF there is a QIT** - a monthly bank fee, up to $20 per month.
  This fee is part of the PNA and is only for QIT bank accounts.
  There is a row on the PR form to fill in the dollar amount.

Step 2. Community Spouse Allowance
The Community Spouse Allowance = $2,202.50* minus the spouse's gross income plus the following if applicable:
Shelter Allowance = Actual Shelter cost minus $600.75*
Utility allowance is $501* per month only if utilities are paid

Step 3. Allowance for the maintenance needs of additional dependents

Step 4. Allowance for maintenance of a home if the individual is returning to their home within 6 months, this equals $150 per month

Step 5. Allowance for uncovered, state approved medical expenses (for Assisted Living and individuals living at home) and health insurance premiums. (See question # 15 for additional information.)

Step 6. Cost Share: Any income remaining after the deductions are made from above will be paid for the individual's cost of care up to the state contracted managed care capitation amount. The trustee will pay the outlined amount directly to the NF, the AL or for the beneficiary that lives at home, the trustee will pay it directly to DMAHS.

*denotes 2016/2017 standards

Please see Personal Responsibility calculation examples below for each living arrangement: Nursing Home, Assisted Living and living at home in the community.

EXAMPLE 1: Nursing Home

John meets institutional level of care and needs to live in a nursing home. He establishes a QIT in the month before he attains Medicaid eligibility. John's monthly gross income of $5,100 is from $1,500 a month in Social Security and $3,600 per month in pension. John is married to Mary, she has a gross income of $800 per month in Social Security and has shelter costs of $700 a month plus she pays utilities.

As explained in Step 2 - The Community Spouse Maintenance Allowance is calculated as $2,002.50 minus Mary's $800 in income which equals $1,202.50. Then her excess shelter cost of $99.25 is calculated as $700 - $600.75. Her utility payments will increase her allowance by another $501. Mary's Community Spouse Maintenance Needs Allowance is $1,802.75 ($1,202.50 + $99.25 + $501).

John's total gross income = $5,100 is directly deposited into his QIT
The Trustee pays out the following expenses:

Total Gross Income =		$5,100.00
Step 1 –	PNA	- 35.00
	Bank Fee	- 17.00
Step 2 -	Community Spouse Allowance	- 1,802.75
Step 5 -	Health Insurance Premium	- 100.00
Step 6 -	Cost Share amount	$ 3,145.25

EXAMPLE 2: Assisted Living Facility

William meets an institutional level of care and would like to reside in an Assisted Living facility. He establishes a QIT in the month before he attains Medicaid eligibility. William's gross income of $3,000 includes $800 in Social Security and $2,200 in pension. William is married to Lauren; she has a gross income of $1,500 which includes $900 in Social Security and $600 in pension. Her shelter costs are $850 per month and she does not pay utilities.

As explained in Step 2 - The Community Spouse Maintenance Allowance is calculated as $2,002.50 minus Lauren's income of $1,500 which equals $502.50. Then her excess shelter costs of $249.25 are calculated as $850 - $600.75. There is no utility allowance added. Lauren's Community Spouse Maintenance Needs Allowance is set at $751.75 ($502.50 + $249.25).

William's total gross income is $3,000 and is directly deposited into the QIT. The trustee pays out the following expenses from the trust:

Total Gross Income =			$3,000.00
Step 1 –	MNA - PNA	-	109.30
	Room and Board	-	775.75
	Bank Fee	-	5.00
Step 2 -	Community Spouse Allowance	-	751.75
Step 5 -	Health Insurance Premium	-	100.00
	Uncovered Medical Expenses	-	0.00
Step 6 –	Cost Share amount		$1,258.20

EXAMPLE 3: Home Based Setting

Linda meets an institutional level of care but would like to remain living in her home. She established a QIT in the month before she attained Medicaid eligibility. Linda's gross income of $3,000 includes $1,200 in Social Security and $1,800 per month in pension. She is married to Rick who has a total gross income of $1902.50. His shelter costs are $700 per month and he pays utilities.

As explained in Step 2 - The Community Spouse Maintenance Needs Allowance is calculated as $2,002.50 minus Rick's income of $1,902.50 which equals $100. Then his excess shelter costs are calculated as $700 - $600.75 which equals $99.25. He also pays utilities and gets the $501 utility allowance. His total Community Spouse Maintenance Needs Allowance is $700.25 ($100 +$99.25 + $501).

Linda's total gross income of $3,000 per month is directly deposited into her QIT.

The trustee pays out the following expenses:

Total Gross Income =		$3,000.00
Step 1 –	MNA -	- 2,205.00
	Bank Fee -	10.00
Step 2 -	Community Spouse Allowance -	700.25
Step 5 -	Health Insurance Premium -	0.00
	Uncovered Medical Expenses -	14.50
Step 6 – Cost Share amount		$ 70.25

28. What happens to the income inside and outside of the QIT account?

After an individual meets the monthly income eligibility criteria by placing one or more monthly income check amounts into a QIT, all monthly income is thereafter counted both in the QIT bank account and outside of the QIT bank account. **All** income is used monthly to meet the obligations set forth on the PR form. At the end of every month, most QIT bank accounts will have a zero or close to zero balance. Any individual who has income in excess of what is required to be paid out according to the PR form will continue to leave their excess income in the QIT account. If this money is withdrawn for any reason, the amount will be considered income and may make the individual ineligible. Any excess income in a QIT account may be required to be spent down at redetermination.

29. Will there be a process for authorizing uncovered state approved medical expenses?

Yes, these types of expenses usually occur with individuals living in Assisted Living facilities or for individuals living at home. In order to seek authorization for uncovered state approved medical expenses, the individual must submit a valid physician's prescription and receipts for all items that will need to be purchased on a monthly basis. An example of these expenses may include, but are not limited to, over-the-counter medications. These expenses may then be deducted from the individual's income as an allowable expense on the PR form. Please note that the word uncovered is underlined as this expense category is not to be used to enhance services that are covered by Medicaid such as personal care assistance or private duty nurses.

30. Can legal fees and administrative fees be used as post-eligibility deductions for QITs?

No. Legal and administrative fees are not allowable post-eligibility deductions. Bank fees are addressed in question #18.

31. What can the maintenance needs allowance be used for?

The maintenance needs allowance may be used for living expenses for the sole benefit of the Medicaid recipient.

32. Can a health insurance premium or other payment such as gas/electric bill, cable TV bill, etc… be electronically withdrawn monthly from the QIT bank account?

Only the specific allowable expenses that are outlined on the PR form can be directly withdrawn from the QIT account. All other deductions are considered a transfer of assets. The allowable expenses are in order as follows: the Personal Needs or Maintenance Needs Allowance paid to the Medicaid beneficiary; the Community Spouse Allowance; health premiums; uncovered medical expenses and the cost share.

A check can be written from the QIT account to a personal checking account for the Maintenance Needs Allowance or to the Community Spouse to pay for the expenses listed in the question above.

TRANSFER PENALTY

33. What will happen if an individual who is applying for long-term services and supports incurs a transfer penalty?

A penalty period is calculated by taking the total amount of money that has been transferred for less than fair market value and dividing it by the average daily cost of a nursing home. The penalty clock begins on the date that the individual is found to be otherwise eligible. In order to be determined otherwise eligible, the QIT must be established and funded. During the penalty period, a QIT may or may not be funded. The month that the penalty ends, the QIT must be funded in order for long-term services and supports to be covered by DMAHS.

Individuals who are otherwise eligible and who are in a penalty period **will NOT** be eligible for any long-term services and supports which include, but are not limited to, the following:

- MLTSS Personal Care Assistance
- Private Duty Nursing for Adults
- Nursing Home and Special Care Nursing Facility Services
- Adult Family Care
- Assisted Living Services (ALR, CPCH)
- Assisted Living Program (ALP)
- Traumatic Brain Injury Behavioral Management
- Caregiver/Participant Training
- Chore Services
- Cognitive Therapy
- Community Residential Services
- Community Transition Services
- Home Based Supportive Care
- Home delivered meals
- Medication dispensing device and monitoring
- Non-Medical Transportation
- Occupational Therapy
- Personal Emergency Response System- set up and monitoring
- Physical Therapy
- Residential Modifications
- Respite Services
- Social Adult Day Care
- Speech, Language and Hearing Therapy
- Supported Day Services
- Vehicle Modifications

IMPORTANT REMINDERS FOR TRUSTEES

- In order to ensure continued eligibility, the QIT bank account must be funded every month according to the QIT document. Benefits will be lost in any month that the QIT account is not funded properly.
- The expenditures outlined on the Personal Responsibility form must be paid out monthly. The EDA will look at all bank statements annually to ensure compliance.
- It is the trustee's responsibility to notify the EDA when there is a change in circumstance. A change in circumstance may include, but not be limited to: change in living arrangement (from facility to facility, facility to a home, or home to facility); an increase or decrease in income; receipt of an inheritance or a lump sum; sale of property from a plan of liquidation; or a change in trustee.
- Medicaid eligibility is renewed annually, a renewal packet is sent to the beneficiary or their representative. It is the responsibility of the trustee to submit the QIT bank statements for every renewal period. If the information is not submitted within the allotted time period, eligibility may be terminated.
- If a change in income occurs, notify the EDA immediately so that the Personal Responsibility form may be adjusted.
- If there is a change in address, notify the EDA immediately to ensure that all mail is directed to the proper address. Too often eligibility is lost because of an incorrect address.