NJ FamilyCare
Qualified Income Trust (QIT)
Frequently Asked Questions (FAQs)

Updated November 25, 2014

1. **When will New Jersey begin using Qualified Income Trusts (QITs)?**

   New Jersey has received authority from the federal government to begin using QITs on December 1, 2014.

2. **What is a Qualified Income Trust (QIT)?**

   A Qualified Income Trust (QIT), also known as a Miller Trust, allows an individual to become eligible for Medicaid Managed Long Term Services and Supports (MLTSS) by placing income into a separate bank account each month. The QIT involves a written trust agreement, setting up the special bank account and depositing income into the account. QITs also have special conditions that must be met and are subject to the approval of, and monitoring by, the appropriate Medicaid eligibility determining agency.

3. **What does a QIT do?**

   When an individual's monthly income above 300% of the SSI Federal Benefit Rate (FBR) is placed in a QIT, that income is not counted when determining financial eligibility for Medicaid. In 2014, 300% of the FBR is $2,163 a month. These individuals must meet all other aspects of Medicaid eligibility such as meeting an institutional level of care. A QIT may be used by individuals living in a nursing facility, an assisted living facility or in their home.

4. **What changes have been made to the Medicaid eligibility process due to the use of QITs?**

   After December 1, 2014, a QIT will be required for individuals if their income exceeds $2,163 per month. Resources cannot exceed $2,000 for an individual. As of December 1, 2014, the Medically Needy program will no longer cover nursing facility services. The QIT gives Medicaid the ability to disregard income that is deposited into the QIT to meet income eligibility. All other eligibility requirements including, but not limited to, transfer of assets, level of care, citizenship and residency will remain the same.

5. What if I am currently living in a nursing home and receiving nursing facility benefits under the Medically Needy program?

Individuals who were receiving benefits through the Medically Needy program prior to December 1, 2014, the QIT effective date, will be permitted to maintain their coverage under the Medically Needy rules and will not have to set up a QIT. However, if they have a change in living arrangements (moving from a nursing facility to an assisted living or into the community) or fail to qualify through the Medically Needy program rules, they can no longer use the Medically Needy rules to retain eligibility. In order to obtain Medicaid Only coverage to ensure continued benefits, they must establish and fund a QIT and spend down their resources to $2,000. Please contact your county eligibility determining agency for more details to begin this process.

6. What if I am living in a Nursing Facility and eligible for Medicaid through the Medically Needy program because my income is above $2,163 per month and I am interested in moving to an assisted living facility, will my Medicaid coverage continue after I move?

The Medically Needy program has never been available to individuals who live in an assisted living facility or who are receiving home-based services. Therefore, your eligibility under Medically Needy rules would not continue. However, if you establish and fund a QIT and spend down your resources to $2,000 before you move to the new facility, you may be eligible for Medicaid Only. Please contact your county eligibility determining agency before you move to ensure your continuity of benefits.

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

- A QIT must contain only income of the individual deposited in the month it is received;
- A QIT <u>cannot</u> contain resources such as the proceeds from the sale of real or personal property, or money from a savings 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; and

- Income deposited in the QIT can only be used as defined by the Post-eligibility Treatment of Income rules and used to pay for the cost share.

8. 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 can be deposited into the QIT in the month that it is received. You can direct all or some of your income to the QIT but all of the income from any one source must be redirected. 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 $2,163). Either the Social Security income or the monthly pension, or both, can be deposited into a QIT and the individual would be under the income cap. The applicant cannot direct half of the pension into the trust.

9. 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. The money given to the spouse, through the post-eligibility treatment of income, by the trustee can be deposited into the spouse's own account in order to be used to pay monthly bills.

10. What types of deposits <u>are not</u> allowed in a QIT?

QITs are solely for income received by the Medicaid beneficiary. Resources cannot be put in a QIT. Resources include things like cash, funds from the sale of real or personal property or a savings, or investment account. Deposits from a spouse or any other person's income or resources are not allowed.

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

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

12. **Do I need a lawyer to establish a QIT?**

The Division of Medical Assistance and Health Services (DMAHS) has posted a QIT template and Frequently Asked Questions (FAQs) on its' website at http://www.state.nj.us/humanservices/dmahs/clients/mrusts.html that may be used by individuals. QITs may be established for an individual by a lawyer.

13. **Who can be a trustee?**

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

14. **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.

15. **Where do I pay the cost share?**

Cost share, also known as Patient Pay Liability (PPL), will be paid to the facilities where individuals reside (Nursing Facility or Assisted Living) or to the Division of Medical Assistance and Health Services (DMAHS), if they reside in their own homes.

16. **What is the Personal Responsibility (PR) form?**

The Personal Responsibility (PR) form is created through a web-based program used by the eligibility determining agencies. The PR form calculates what an individual's post-eligibility payment responsibilities will be and their Patient Pay Liability (PPL). The Personal Responsibility (PR) form has three different categories which represent an individual's living arrangement; a PR-1 is for a Nursing Facility; a PR-2 is for an Assisted Living Facility and a PR-3 is for Home-based 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 eligibility determining agency when they occur, as required on the Medicaid application.

17. **Will the Patient Pay Liability (PPL) and approved deductions on the Personal Responsibility (PR) form be calculated after eligibility is effective, and, when will those expenses begin to be required payments?**

The Patient Pay Liability (PPL) is determined after eligibility is established through the Personal Responsibility (PR) form. A copy is provided to the individual or their authorized representative by the eligibility determining agency. The individual will need to make sure the trustee gets a copy of the Personal Responsibility (PR) form if the trustee is not their authorized representative. The expenses will begin to be required payments in the month that eligibility is established.

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

Yes. 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 purchased. An example of these expenses may include, but are not limited to, over-the-counter medications. These expenses may then be deducted from the post-eligibility treatment of income on the Personal Responsibility (PR) form and the authorized expenses will reduce an individual's Patient Pay Liability (PPL).

19. 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?

For an individual with income above the 300% FBR (currently, $2,163), in order to be financially eligible in any month, the individual must fund a QIT.

20. If a QIT is established and there is a transfer penalty, should the Trust be funded during the penalty period?

When an individual has a transfer penalty, they must be otherwise eligible in order for the penalty period to start. Therefore, in order to be otherwise eligible, the individual needs to have a QIT established and funded in the month that he or she has a Pre-Admission Screening (PAS) approved for an institutional level of care.

21. 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.

22. What happens upon death of the QIT beneficiary if there are outstanding fees due and owed to the facility, or others? Do these obligations take priority over payment to the state?

A QIT must provide that the state is the first remainder beneficiary at death, up to the total amount of Medicaid benefits paid for the beneficiary.

23. What will happen if an individual applying for MLTSS incurs a transfer penalty?

When an individual applies for MLTSS and a transfer of assets for less than fair market value is discovered within 60 months before the date of application or afterwards, he or she will receive a penalty period before he or she will be eligible for MLTSS waiver services. The calculation used to determine a penalty period is the total amount that has been transferred divided by the average daily cost of a nursing facility ($313.50 in 2014). The penalty clock begins on the date that the individual is found to be otherwise eligible.

Individuals who are otherwise eligible and who are in a penalty period will NOT be eligible for waiver services which include, but are not limited to, the following:

- MLTSS Personal Care Assistance
- Private Duty Nursing for Adults
- Nursing Facility 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