

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

# A Bill

HOUSE BILL 1577

By: Representative Ladyman

## For An Act To Be Entitled

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

### Subtitle

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

#### Subchapter 7- Qualified Income Trust

##### 28-72-701. Definitions.

##### As used in this subchapter:

##### (1) "Agent" means:

- (A) A child of an applicant or recipient;
- (B) A spouse of an applicant or recipient;
- (C) A sibling of an applicant or recipient;
- (D) An individual serving as attorney-in-fact under a  
durable power of attorney for an applicant or recipient;
- (E) An individual serving as a guardian of the estate for  
an applicant or recipient; or
- (F) An individual serving as a representative payee as  
determined by the Social Security Administration for an applicant or  
recipient;

##### (2) "Applicant" means an individual who applies to the



Department of Human Services for benefits that are subject to income limits for financial eligibility determination;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) Has a spouse residing in the community;

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

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

(B) Has a dependent residing in the community;

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

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

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

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

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