NJ FamilyCare
Qualified Income Trust (QIT)
Frequently Asked Questions (FAQs)
Updated September 21, 2015

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 gross 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 gross monthly income is above 300% of the SSI Federal Benefit Rate (FBR), some or all of the income can be placed in a QIT, and then that portion of the income is not counted when determining financial eligibility for Medicaid long term services and supports benefits (see #8. below). Individuals must meet all other requirements for Medicaid eligibility such as citizenship, residency and institutional level of care.

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

A QIT will be required for individuals if their gross income exceeds $2,199 per month, which is the institutional limit in 2015. 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 apply for the Medically Needy program prior to December 1, 2014 and are found to be eligible to receive benefits through the Medically Needy program prior to December 1, 2014, will be permitted to maintain their coverage under the Medically Needy rules. Individuals who applied for Medicaid after December 1, 2014 need to establish eligibility using a QIT. If a Medically Needy recipient changes their living arrangement (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 gross income is above $2,199 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. An individual can direct all or some of their income to the QIT but all of the income from any one source (e.g. the entire monthly amount of a pension 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 2015 income cap of $2,199). 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.

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 deposited into 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 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 cost share. 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 Cost Share 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 Cost Share 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 cost share.

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?

In order to be financially eligible in any month, the individual must fund a QIT. Since eligibility cannot be permitted before the clinical assessment (Pre-Admission Screening or PAS) is approved for an institutional level of care, funding the QIT bank account before this occurs will make an individual's income unavailable to them before they are eligible.

20. 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.

21. 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.

22. 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 ($332.59 in 2015). 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

23. What is the Post-eligibility Treatment of Income?

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 determined. These rules are outlined by the federal government at 42 CFR 435.725 and 435.726. The expenses must be deducted in the following amounts, in the following order, from the individual's total gross income (including amounts disregarded in determining eligibility):

- Personal Needs Allowance –
  $35* for a Nursing Facility (NF)

- Maintenance Needs Allowances (MNA)

$109.00* for the beneficiary in an Assisted Living Facility (AL)

$774.05* room and board for AL

$2,199*-Home and Community Based Services (HCBS) (must be spent each month or considered a resource)

- Community Spouse Allowance =$1,991.25* minus spouse's gross income plus the following if applicable:
  Shelter Allowance = Actual Shelter cost minus $597.38*
  Utility allowance is $491* per month only if utilities are paid

- Allowance for the maintenance needs of additional dependents

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

- Allowance for uncovered, state approved medical expenses and health insurance premiums

- 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 managed care capitation amount. The trustee will pay the outlined amount directly to the NF, the AL or for HCBS the trustee will pay it directly to DMAHS.

*denotes 2015/2016 standards

After eligibility is determined, these calculations will be made by the eligibility determining agency staff. A copy of the Personal Responsibility (PR) form that states the specifics of the Medicaid recipient's responsibilities will be sent to the Medicaid recipient or their representative.

EXAMPLE 1: Nursing Facility

John meets institutional level of care and needs to live in a nursing facility. 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.

The Community Spouse Maintenance Allowance is calculated as $1991.25 minus Mary's $800 in income which equals $1191.25. Then her excess shelter cost of $102.62 is calculated as $700-$597.38. Her utility payments will increase her allowance by another $491. Mary's Community Spouse Maintenance Needs Allowance is $1,784.87 ($1,191.25+$102.62+$491).

John's total gross income = $5,100 is directly deposited into his QIT

The Trustee pays out the following expenses:

$5,100.00	
- 35.00	PNA
- 1,784.87	Community Spouse Allowance
- 100.00	Health Insurance Premium
$ 3,180.13	Available for cost of care to be collected by the NF

EXAMPLE 2: Assisted Living Facility

William meets an institutional level of care and would like to be in Assisted Living. 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.

The Community Spouse Maintenance Allowance is calculated as $1,991.25 minus Lauren's income of $1,500 which equals $491.25. Then her excess shelter costs of $252.62 are calculated as $850-$597.38. There is no utility allowance added. Lauren's Community Spouse Maintenance Needs Allowance is set at $743.87 ($491.25+$252.62).

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:

$3,000.00	Total Income
- 883.05	Maintenance Needs Allowance (R & B + $109)
- 743.87	Community Spouse Allowance
- 100.00	Health Insurance
-	No unreimbursed medical expenses
$1,273.08	Available for cost of care to be collected by the AL facility

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 $1,891.25. His shelter costs are $600 per month and he pays utilities.

The Community Spouse Maintenance Needs Allowance is calculated as $1,991.25 minus Rick's income of $1,891.25 which equals $100. Then his excess shelter

costs are calculated as $600-$597.38 which equals $2.62. He also pays utilities and gets the $454 utility allowance. His total Community Spouse Maintenance Needs Allowance is $593.62 ($100+$ 2.62+$491).

Linda's total gross income of $3,000 per month is directly deposited into her QIT. The trustee pays out the following expenses:

$3,000.00
- 2,199.00 Maintenance Needs Allowance
- 593.62 Community Spouse Allowance
- 100.00 Health Insurance Premium

$107.38 Available for cost of care collected by DMAHS

24. Is income counted in gross amounts or the net?

Income is always counted in gross amounts for Medicaid eligibility. In using a Qualified Income Trust), all income over $2,199 (2015 standard) per month must be deposited into a QIT bank account in order for it to be disregarded for Medicaid eligibility. Checks deposited into the QIT bank account must include the entire dollar amount of that income source – example, a social security check for $1,000 cannot be broken into $500 inside the Trust and $500 outside the Trust – the entire check must be deposited inside or kept outside the QIT bank account.

25. My mother has a monthly payment due to AARP for health insurance, can that payment be subtracted directly from the QIT bank account?

All income is counted after an individual is determined eligible whether it is inside or outside the QIT bank account. Expenses are then permitted to be paid in the following order, whether the money is inside the QIT bank account or outside of the QIT bank account: Maintenance Needs Allowance; Community Spouse Allowance; Health Insurance Premiums (your AARP amount included here); Uncovered State permitted Medical Expenses; and then the balance would be paid to the state for Cost Share.

26. How do we prove to the CWA 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 for proof of funding.

27. Is the income that is required to be deposited in the QIT required to be direct deposit 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.

28. 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 $2,199 must be deposited in the QIT bank account each month and then the cost share is paid to the facility. Only income inside the QIT bank account can be disregarded for Medicaid eligibility.

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

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

30. 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, funds that are deposited into a Resident Fund Management account are considered income.

31. 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 specific expenses allowable by federal regulations can be paid directly from the QIT account. They are in order as follows: the Maintenance Needs Allowance paid to the Medicaid beneficiary; the Community Spouse Allowance; health premiums; uncovered medical expenses and the cost share. Therefore, a check can be written to a personal checking account for the Maintenance Needs Allowance which then can be direct debited for the expenses listed. Payment for a health insurance premium may be directly debited from the QIT account because health insurance is an allowable deduction.

32. On the QIT Trust template, who is the distributee(s) in the section under "Termination" regarding who the Trustee distributes any remaining trust property after payment to the NJ Division of Medical Assistance and Health Services is made?

On the QIT Trust template, in the section under "Termination", if the Medicaid recipient is competent, they may name a distributee(s). Otherwise, the account would be subject to probate law.

33. 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. The actual bank fee amount will now be required information to include in any QIT document. PR forms outline all allowable post-eligibility expenses and will now include the monthly bank fee.

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

The Grantor is the individual who is establishing the Trust. This may be the actual Medicaid applicant/recipient, their Power of Attorney or Guardian.

35. 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, payment amounts are included in the post-eligibility treatment of income as part of the cost share to reduce the amount that the state pays for an individual's care.