Arkansas Legal Services Partnership

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Miller Trust

Overview

Paying for nursing home care can be hard for many Arkansans. Many people are forced to seek Medicaid eligibility. You have to meet several requirements to qualify for long-term care Medicaid.

The major requirements are that you:

- Require nursing-home level care,
- Have resources that total no more than $2,000 (with some being excluded), and
- Have income less than the income gap.

This fact sheet offers information about one of the major problems of having too much income to qualify but too little money to pay for nursing home care. People in this situation are trapped in the gap.

What is an income cap?

Arkansas is one of 20 or so states that have a strict income limit on Medicaid eligibility for long-term care services.

These services are not part of the medically needy program, so no spend-down of income is allowed. A spend-down means that a person who has too much income to normally qualify for Medicaid can subtract certain medical bills from their income amount so they can qualify for Medicaid. Spend-down is not an option in Arkansas for long-term care.

What is the income cap in Arkansas?

It is $2,163 a month. This number changes every January and is three times the rate of SSI (Supplemental Security Income).

The average monthly cost for nursing home care is somewhere between $4,500 and $5,000 a month.

If your income falls between the gap, it can be difficult to get nursing home care. You and your spouse can suffer. You can be left with a choice of taking care of yourself or having no money to live on.

Example:
John and Mary Smith are retired. John receives $2,200 a month from Social Security and a pension. Mary receives $400 a month in Social Security. Their combined total income is $2,600 a month.

John recently suffered a stroke and is hospitalized. Complications require him to need skilled nursing home care when he leaves the hospital. The cost of nursing home care will be at least $4,500 a month.

John's income is too high to qualify for Medicaid, but his and Mary's combined income will barely pay for John's care. John cannot afford to go into a nursing home, and Mary is unable to care for him. John and Mary are trapped in the gap.

This example is all too common. John and Mary are not wealthy enough to pay for care, but they aren't poor enough to qualify for Medicaid.

However, there is a way for John to become income eligible. This can be done by using an income-only trust called a Miller Trust.

What is a Miller Trust?

It allows individuals to become income eligible under Medicaid. It does not require any advanced planning and is often used in a crisis situation (like the example given above).

Once someone is eligible for Medicaid, the cost of nursing home care would be covered. For a spouse, this can also mean benefiting from the Medicaid spousal impoverishment provisions.

Using the example above, all of John's income would go into the Miller Trust. Funds from the Miller Trust would pay the nursing home. Medicaid would pay what the trust did not cover.

The Medicaid spousal impoverishment provisions would also help Mary. Mary would not be required to give any of her own income to John's care. Some of John's income would be given to Mary.

This is called the Community Spouse Monthly Maintenance Needs Allowance. It is a combination of a basic income allowance and a shelter allowance. The basic income allowance equals a percentage of the poverty level.

The excess shelter allowance equals the amount of shelter costs (like rent, mortgage, taxes, insurance, and utilities), which is more than 30% of the basic income allowance. The total needs allowance is set to a specific amount, which is linked to the consumer price index.

Then Mary can receive a contribution from John to bring her income up to the amount of the needs allowance. If Mary's income were greater than the needs allowance, she would not be given any money. Being given money like this is known as the Community Spouse Monthly Income Allowance.

In the example, Mary's income is so low that she would be able to receive part of John's income. This is the kind of good outcome the spousal impoverishment provisions were meant to offer.

Who can a Miller Trust help?

It will not help everyone in a situation like the example given above.

A person can still have too much income for the trust to work. The trust is also considered a last resort if you have no other options available.

An elder law attorney or an attorney who has experience in Medicaid can answer questions that you might have. An attorney can also help you decide if this type of trust is an option for you or your spouse.

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