



Labor & Industry for Education, Inc.
112 Spruce Street, Cedarhurst, NY 11516
(P) 516-374-4564 x 3 (F) 516-374-4654
www.lifetrusts.org

Avoiding the Nursing Home: How a Pooled Trust Can Help You Retain Your Independence and Stay in Your Home

By Jennifer Katz, Esq.
Labor & Industry for Education, Inc.

During this perilous time, it is more important than ever to be educated about your healthcare options. Community Medicaid is a program that allows seniors and people with chronic disabilities to remain in their homes and receive care paid for by Medicaid.

The news stories that are released daily are frightening. There are a staggering number of coronavirus cases and deaths of people in nursing home. Nearly 25% of deaths in New York State have been residents in nursing homes. New York State's Health Commissioner has required that nursing homes readmit patients that have tested positive for the virus. The safer option is for New Yorkers to shelter at home whenever their health allows, as advised by the CDC and Department of Health.

Community Medicaid refers to services delivered "in the community," in a home-based setting or an assisted living facility. Some of the benefits offered by Community Medicaid include a home health aide, who can come to your home and provide services ranging from housekeeping and companionship, to skilled nursing

services provided by a Registered Nurse. You may also qualify to receive no-cost or low-cost medical supplies, transportation to doctor's appointments, and even meal services.

To become eligible for Community Medicaid, an individual must meet certain medical and financial criteria. To fulfill the medical requirement, you must be "disabled", as defined by the Social Security law. Many people in the aging community would qualify under this definition; the word "disabled" is not to be understood in its common form. Ailments such as diabetes, heart disease, anxiety or even arthritis could qualify an individual to receive Community Medicaid. People of all ages who are developmentally disabled are also eligible to receive this type of Medicaid. For more information about whether you qualify medically, please consult a qualified elder law attorney or Medicaid specialist.

In order to financially qualify to receive Community Medicaid services, an individual's monthly income must be below \$875, with resources below \$15,750 (for the year 2020). If an individual's monthly income or assets exceed those strict limits, a pooled trust is the best way to protect that money, and remain eligible to receive Community Medicaid benefits. The purpose of the pooled trust is to shelter your money from Medicaid, and still allow you to use those funds to pay your own bills. Establishing a pooled trust does not affect eligibility for SSI, food stamps, Section 8 or other governmental benefits. By making a deposit of your surplus income into a pooled trust every month, you are financially eligible for Medicaid.

There is a common misconception that in order to qualify for Medicaid a person must give away all their money, which quite understandably, is something an individual might be hesitant to do. But the pooled income trust acts only as a flow-through for the money.

As soon as the surplus is deposited in the trust account, the funds are immediately accessible for use. Funds can be used to pay bills like rent/mortgage, taxes, utility bills or even credit card bills. Unspent money also rolls over each month, so there is no pressure to spend more money than necessary in any given month.

There are two types of pooled trusts—income and asset. Both can be utilized to legally protect your money and remain eligible for Medicaid. The more common type is the pooled income trust. For consistent monthly income, from sources such as Social Security, pension, IRA distributions, etc., the Medicaid 2019 guidelines allow an individual no more than \$859 per month, and a married couple (with both spouses on Community Medicaid) \$1,267 per month. Any income above those limits is referred to as “surplus income”, “excess income”, “NAMI (net available monthly income)” or “spend-down.”

Income Depositing the surplus income into the trust every month ensures that you remain eligible for Medicaid. And the best part is you don’t have to forfeit those funds to Medicaid. You can use your money to pay your own bills. The funds in the trust account can pay for a rent or mortgage, utility bills, taxes, even credit card bills. The trust simply acts as a pass-through for your money.

Here’s an example to illustrate how a pooled income trust operates. John, a widower, receives \$1300 every month from Social Security and a pension of \$700 a month.

Social Security \$1,300

+

Pension \$700

Total Monthly Income \$2,000

John’s total monthly income is \$2,000. Abiding by the Medicaid guidelines, John is allowed to keep \$875, and therefore must deposit \$1,125 into the pooled trust account. *

* Please note that there are administrative fees associated with all pooled trusts, so make sure you speak with a trust representative before enrolling. For the purpose of this example, we will not consider the fees. Medicaid may also allow certain “deductions” in budgeting, which would result in a smaller pooled trust deposit. Consult with an elder law attorney to find out how this might apply to your specific case.

Total Monthly Income \$2,000

—

Medicaid Allowance \$875

Deposited Into Trust \$1,125

From that \$1125, John can instruct the trust to pay his bills.

For instance, if John's rent is \$800, cable bill is \$100 and phone bill is \$50, John will ask the trust to make 3 payments on his behalf, totaling \$950.

Deposited Into Trust \$1,125

—

Rent \$800

—

Cable Bill \$100

—

Phone Bill \$50

Remaining in Trust \$175

Because John's bills for the month did not equal his surplus amount, he left \$175 remaining in his account at the end of the month. One of the great features of pooled trusts is that the money rolls over month to month, so when John deposits \$1125 into the trust the following month, he will have a total of \$1300 available to him.

Remaining in Trust \$175

+

Next Month's Surplus \$1,125

Amount in Trust \$1300

Asset The pooled asset trust functions in a similar way. Medicaid allows individuals to keep resources up to \$15,750. If an individual has assets (i.e. cash in the bank) above that amount, the surplus can be deposited into the asset trust to shelter it from Medicaid. The most common situations where an asset trust is necessary is when an individual is already receiving Medicaid services and receives a lump sum of money, usually from an inheritance or a lawsuit settlement. The funds are deposited as a one-time deposit, and distributions may be made from the account in whatever frequency the client desires.

Clients may make expenditures from their asset trust in the same way they do from the income trusts. For both trusts, the list of allowable expenses is wide-ranging. The guiding principle is that all expenses paid from the trust must be “for the sole benefit of the individual”. Practically, this means that the expenditure cannot be for a friend or family member. There is a short list of items that are prohibited to be paid through the trust: life insurance, health insurance, tobacco products, liquor, firearms, gifts, charity, gambling and illegal activity (i.e. parking tickets).

The most common expenditures made from the trust are rent/mortgage, utility bills, cable bills, and credit card bills. However, there are many types of expenses that fall within the definition of “sole benefit of the individual”, including luxuries. The trust funds can pay for a beneficiary’s vacation – flight, hotel and restaurants. But remember, only the beneficiary’s vacation can be covered – not any accompanying friends or family members. The individual can go to the hair salon, nail salon, sporting events, shopping at department stores, and use the funds in the trust to pay for those expenses, all without jeopardizing their Medicaid benefits.

Staying at home in a person’s later years can be the best thing to keep them happy, active and productive people. Having home health aides, and the other benefits of Community Medicaid, are a perfect way to help people remain independent and at home. Pooled special needs trusts are an integral part of this process.

For more information, please contact LIFE Pooled Trust customer service:

516-374-4564 ext.3

bills@lifetrusts.org

www.lifetrusts.org