

2016 Changes to Ohio Medicaid, Especially Those Effective 8-1-16

All rights reserved
GREGORY S. FRENCH, CELA
1244 Paddock Hills Ave.
Cincinnati, OH 45229-1218
513-641-4692
Fax: 513-242-5542
E-mail: GFrenchLaw@aol.com

11/16/2016

All rights reserved, Gregory S. French, CELA

1

Medicaid Spenddown Before August 1

- Community applicants can subtract medical expenses to meet the \$634 income limit.
- Nursing home applicants can subtract medical expenses to reduce their income to less than the Medicaid reimbursement rate.
- Waiver (PASSPORT, Assisted Living, Ohio Home Care, Individual Options, and MyCare Ohio) applicants cannot subtract medical expenses to meet the \$2,199 income limit.

11/16/2016

All rights reserved, Gregory S. French, CELA

2

Medicaid Spenddown Eliminated Beginning August 1

- All Supplemental Security Income (SSI) beneficiaries are Medicaid eligible.
- Community applicants' gross income must not exceed \$733.
- Nursing home applicant gross income must not exceed \$2,199.

11/16/2016

All rights reserved, Gregory S. French, CELA

3

Only Individuals Eligible for LTC Services Can Use a QIT

- Community Medicaid beneficiaries lose their Medicaid if their income exceeds \$733.
- Community Medicaid beneficiaries who have Medicare cannot purchase health insurance through the Health Insurance Exchange.
- Medicare beneficiaries younger than age 65 must pass medical underwriting to purchase supplemental insurance.

11/16/2016

All rights reserved, Gregory S. French, CELA

4

Medicaid Countable Asset Limit

- Before August 1, the Medicaid asset limit remained the limit set when Medicaid was enacted in 1965: \$1,500.
- Beginning August 1, the Medicaid asset limit increased to the SSI limit: \$2,000.

11/16/2016

All rights reserved, Gregory S. French, CELA

5

Long-Term Care Services for which a Qualified Income Trust (QIT or Miller Trust) Can Be Used to Reduce Income

- Inpatient care in an institution such as a nursing facility.
- Home and community-based waiver services such as PASSPORT and Assisted Living.
- Program for All-Inclusive Care for the Elderly (PACE) services.

11/16/2016

All rights reserved, Gregory S. French, CELA

6

Countability of Income Deposited Into the QIT and of the QIT Corpus

- All or a portion of income may be placed in the QIT account.
- Income placed in the QIT account is not counted as income.
- QIT Corpus not counted as a resource.

11/16/2016

All rights reserved, Gregory S. French, CELA

7

QIT Requirements

- Irrevocable.
- Only the applicant's income can be placed into the QIT.
- The sources of income placed into the QIT must be identified.
- The applicant cannot transfer or assign to the QIT the right to receive the income.
- Nothing else can be placed into the QIT.

11/16/2016

All rights reserved, Gregory S. French, CELA

8

Medicaid Payback From the QIT

- Trust must terminate upon the death of the beneficiary.
- Ohio Medicaid paid back up to the amount of benefits paid on behalf of the beneficiary.
- Trustee prohibited from repaying other persons or creditors prior to payback.

11/16/2016

All rights reserved, Gregory S. French, CELA

9

Medicaid has Contracted with Automated Health Systems to Establish QITs

- Telephone: 1-844-265-4722.
- Email: OhioQIT@automated-health.com.
- Fax: 614-280-0977.

11/16/2016

All rights reserved, Gregory S. French, CELA

10

Subtracted from Applicant's Gross Income to Calculate Patient Liability

- A monthly allowance for the applicant (\$50 for nursing home, \$733 for assisted living, and \$1,430 for PASSPORT).
- Monthly spousal (\$2,981 cap) or family member (\$668 cap) maintenance allowance.
- Applicant's incurred medical expenses.

11/16/2016

All rights reserved, Gregory S. French, CELA

11

QIT Expenses

- Up to \$15/month for bank fees, attorney fees, and other expenses to establish and administer the QIT.
- If \$15 is insufficient to administer the trust, the beneficiary can request an increase to the \$15 limit.
- No hearing rights for disapproval of fee exceeding \$15.

11/16/2016

All rights reserved, Gregory S. French, CELA

12

Triggering Transfer of Asset or Income Problems

- Distributions or transfers for other purposes may result in restricted eligibility.
- Income placed into the QIT that exceeds the amount paid out may result in restricted eligibility.
- Unauthorized payments to the applicant are countable income.
- Payments to a third-party to purchase something in-kind are unearned income and payments for anything else may result in restricted eligibility.

11/16/2016

All rights reserved, Gregory S. French, CELA

13

Opening a QIT Account

- Given the \$15 administrative cost limit and the pass-through nature of the account, many financial institutions will not open QIT accounts.
- First Financial Bank and Huntington Bank have been opening QIT accounts.
- Fifth Third Bank and U.S. Bank have not been opening QIT accounts.
- Some facilities have been opening accounts through their Resident Fund Management System.

11/16/2016

All rights reserved, Gregory S. French, CELA

14

Documentation Requirements

- Title of QIT account must identify it as a QIT account in the applicant's name.
- Location of QIT account.
- QIT account number.
- Details about who has access to the QIT account.

11/16/2016

All rights reserved, Gregory S. French, CELA

15

Submitted With Application

- The executed QIT.
- Establishment of the QIT account.
- Documentation of the required monthly deposit.
- Verification of monthly deposits from an income source or sources into the QIT.
- Documentation of efforts to have income deposited directly into the QIT.

11/16/2016 All rights reserved, Gregory S. French, CELA 16

Documentation of Monthly Deposits Into the QIT

- Must document efforts to deposit income directly into the QIT account.
- If income not automatically transferred each month, must document that income is being deposited into the QIT each month.
- Must document monthly deposits into the QIT account at annual eligibility review.
- Income not deposited considered available and may result in an overpayment.

11/16/2016 All rights reserved, Gregory S. French, CELA 17

When the Home of the Applicant is Excluded

- Before August 1, applicant had to list home for sale at 90% of auditor value after receiving Medicaid coverage for 13 months.
- Beginning August 1, the home is excluded if the applicant intends to return home.
- Temporary absence does not affect the exclusion, if the applicant signs a statement stating the intention to return home.

11/16/2016 All rights reserved, Gregory S. French, CELA 18

When the Home is Exempt if There is No Intent to Return

- Occupied by spouse.
- Occupied by a dependent child, stepchild, or grandchild.
- Occupied by a dependent parent, stepparent, or grandparent.
- Occupied by a dependent aunt, uncle, niece, or nephew.
- Occupied by a dependent sibling, stepsibling, or half-sibling.
- Occupied by a dependent cousin or in-law.

11/16/2016

All rights reserved, Gregory S. French, CELA

19

Home in a Revocable Trust

- Before August 1, a home in a revocable trust was a countable asset.
- Deeding the home from the revocable trust to the applicant or applicant's spouse was an improper transfer.
- Beginning August 1, a home in a revocable trust is an excluded asset.

11/16/2016

All rights reserved, Gregory S. French, CELA

20

\$552,000 Home Equity Limit

- Only applies to applicants seeking coverage of long-term care services.
- Does not apply, if the home is occupied by the applicant's spouse.
- Does not apply, if the home is occupied by the applicant's child who is age 21, blind, or disabled.

11/16/2016

All rights reserved, Gregory S. French, CELA

21

Excluded Vehicles

- Before August 1, the entire value of one vehicle was totally excluded only if the applicant was married, the vehicle was equipped for the handicapped, or necessary for medical transportation.
- Beginning August 1, the entire value of one vehicle is totally excluded no matter what.
- The equity value of all non-excluded vehicles is counted as a resource.

11/16/2016

All rights reserved, Gregory S. French, CELA

22

Lump-Sum Payments

- Before August 1, retroactive SSI and Social Security payments were excluded from countable resources for 6 months.
- Beginning August 1, such retroactive payments are excluded for 9 months.
- Retroactive payments may be comingled with other funds, provided they can continue to be separately identified.

11/16/2016

All rights reserved, Gregory S. French, CELA

23

Spousal Retirement Funds

- Before August 1, counted if the applicant or spouse can convert to cash.
- Beginning August 1, retirement funds owned by an ineligible spouse are excluded from resources for deeming purposes.
- Couple's resource limitation is not affected by whether the spouse is eligible or ineligible.

11/16/2016

All rights reserved, Gregory S. French, CELA

24

Returning Transferred Resources to Reduce Restricted Coverage Period

- Before August 1, individuals could improperly transfer excess assets and then return some of those assets to both pay for care and reduce the restricted coverage period.
- Beginning August 1, returning less than all transferred assets does not reduce the restricted coverage period.
- Returned assets are considered available beginning the month they were transferred and can cause an overpayment, if Medicaid paid.

11/16/2016

All rights reserved, Gregory S. French, CELA

25

Annuity for Community Spouse

- Before August 1, the purchase of an annuity for the community spouse after the applicant's institutionalization was an improper transfer if the purchase price exceeded the CSRA.
- Beginning August 1, the purchase of an annuity after institutionalization but before eligibility is determined is not improper.
- The annuity must be irrevocable, non-assignable, actuarially sound, provide for equal payments, and name Ohio as a remainder beneficiary.

11/16/2016

All rights reserved, Gregory S. French, CELA

26

Transferring Assets in Exchange for a Promissory Note

- Before August 1, individuals could improperly transfer some of the excess assets and lend the balance in exchange for a promissory note whose monthly repayments would pay for care during the restricted coverage period.
- Beginning August 1, the restricted coverage period arising from the improper transfer is recalculated only if the note is repaid in full.
- Repayment must be in accordance with Medicaid's transfer of asset rules.

11/16/2016

All rights reserved, Gregory S. French, CELA

27

Minimum Monthly Maintenance Needs Allowance (MMMNA) and Excess Shelter Allowance (ESA) Standard

- Community spouse's monthly income allowance equals MMMNA plus ESA minus spouse's income.
- Beginning July 1, MMMNA equals \$2,003.
- Beginning July 1, ESA Standard equals \$601.

11/16/2016

All rights reserved, Gregory S. French, CELA

28

Individuals Eligible for Specialized Recovery Services (SRS)

- Disabled by serious and persistent mental illness.
- Monthly income less than \$2,199.
- Age 21 or older.
- Need help with medical appointments, social interactions, and living skills.
- Do not live in a nursing facility, hospital, or similar setting.

11/16/2016

All rights reserved, Gregory S. French, CELA

29

Benefits and Services of SRS

- SRS beneficiaries keep their Medicaid coverage.
- Recovery managers develop and monitor a comprehensive plan of care.
- Help beneficiaries to find and maintain employment.
- Peer recovery supporters use their own experiences with mental health and substance abuse to help beneficiaries reach recovery goals.

11/16/2016

All rights reserved, Gregory S. French, CELA

30
