The Income Standard for Medicaid Waiver Cases

For 2009, Medicaid has set $674 ($1,011 for a married couple) as the monthly income standard for regular Medicaid and $2,022 as the monthly income standard for a waiver recipient. Medicaid calls this higher limit for the waiver program the Special Income Level (SIL). An individual on Medicaid waiver with monthly income less than $2,022 will have no income spend down. A waiver recipient with countable income above $2,022 cannot utilize the higher income standard and must instead spend down to $674 ($1,011 if married). “Spend down” refers to the amount of a recipient’s income that Medicaid expects the recipient to pay towards his or her own medical care and waiver services. As a result, a single waiver recipient with income of $2,000 per month will have no spend down, while a single waiver recipient with monthly income of $2,200 will have a spend down of about $1,510 per month. This is not a fair result.

Is There Any Way to Avoid the Harsh Results of the Income Standard?

If all of the income, or the income above $2,022, is placed into a Qualified Income Trust, known as a “Miller Trust”, then the person will be treated as not having income over the income standard and will receive the benefit of the higher standard. The trust is known as a Miller Trust because it was approved by a federal court in Colorado in a lawsuit brought by Mr. Miller. Congress later amended the federal Medicaid law to allow Miller trusts to be used.

How does a Miller Trust work?

The Medicaid waiver applicant or recipient signs a trust agreement agreeing to each month place all income, or only the income that exceeds $2,022, into a separate bank account, labeled as a trust account. If all of the income is placed into the trust, then $2,022 of those funds should immediately be removed each month and returned to the recipient. The trust account will be used to pay the Medicaid income spend down and any other medical expenses not covered by Medicaid or other insurance. For example, payment of a health insurance premium, such as a Medicare supplemental insurance premium, is allowed. If married, the recipient may be allowed to transfer all or part of the funds to the spouse. This will depend on the other spouse’s income and shelter costs. Any funds remaining in the account at death must be paid to Medicaid, though there may be few if any funds left in the account.

The caseworker will check to see that the account has been established and is being funded, so it is important to set up the trust fund promptly. A copy of the trust and verification that the bank account has been opened need to be given to the caseworker. It is also crucial to make certain that the required deposits to the account are made each month and that records of all deposits and expenditures are kept. Receipts, invoices, or other records supporting expenditures must be kept.