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## Seniors and Special Needs News - July 29, 2016

1 message

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Fri, Jul 29, 2016 at 9:01 AM

With help, seniors and people with special needs can keep some of their assets in the family rather than lose their entire life savings to the costs of long term care. They can use these protected assets to enhance their quality of life beyond what long term care alone will provide.

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**The Koewler Law Firm**  
 JAMES L. KOEWLER, JR.



# Seniors and Special Needs News

## Ohio Medicaid changes "Aged Blind Disabled" Eligibility Changes to form Miller Trust

This week's newsletter continues the discussion of the changes to Ohio Medicaid's Aged, Blind and Disabled (ABD) program for people who need long term care coming in 2016-2017. The initial installment ([April 28, 2016](#)) provided an overview of the transition from the old system (following section 209(b) of the federal Medicaid law) to the new system (that will follow section 1634 of the federal Medicaid law.) The [May 6, 2016](#) installment discussed the new income rules that will go into effect with the new eligibility system. The [May 13, 2016](#) installment discussed setting up a Qualified Income Trust (aka Miller Trust) that will be necessary for people who need ABD Medicaid to help pay for long term care. The [June 17, 2016](#) installment discussed the Ohio rules that describe how to use the Miller Trust each month. The [June 24, 2016](#) installment discussed the difficulty in understanding the need for a Miller Trust. The [July 1, 2016](#) installment, discussed the need to empty the Miller Trust account every month. The [July 8, 2016](#) installment discussed the need to balance the Miller Trust with the desire to have health insurance. The [July 15, 2016](#) installment discussed installment discussed the confusing deposit rules for Miller Trusts. The [July 22, 2016](#) installment discussed the changes that the Ohio Department of Medicaid has made to the form Miller Trust document. Today's installment will discuss whether income is supposed to go directly into the Miller Trust.

The Ohio Department of Medicaid has finalized its new rule on Miller Trusts (aka Qualified Income Trusts or QITs.) A copy of the final rule is available [here](#). The first form Miller Trust from the Ohio Department of Medicaid can be found [here](#). The new version of the form Miller Trust from the Ohio Department of Medicaid can be found [here](#).

Because the rule calls them QITs and today's installment makes a number of references to the new rule, for this installment, I've started usually to call them QITs.

The Ohio Department of Medicaid had originally announced that the new rules would take effect on July 1, 2016. As that date approached, and the enormity of the changeover became more apparent, the effective date was delayed until August 1, 2016. I recently heard a rumor (and it is just that, only a rumor) that the implementation will be delayed again.

While the delays may seem frustrating, it is very hard to overstate the enormity of the changes that Ohio's Department of Medicaid is trying to make. Not only are there the rule changes for people who need long term care that I have been discussing (and will continue to discuss) in my blog and newsletter. There are bigger changes (affecting tens of thousands more people) in the eligibility rules for Medicaid for people who are disabled but do not need long term care. In addition, to oversee the new requirements for all affected people, the state and county Medicaid offices have to move to a new software system to manage the Medicaid program.

As discussed previously, someone in Ohio who needs Medicaid support to pay for long term care whose gross monthly income exceeds the Special Income Level (\$2,199.00 at this time) must use a QIT to make the income over the Special Income Level not "income" anymore in the eyes of Medicaid. (Yes, the process is as hard to follow in real life as it is to follow in that sentence.) In order to get the benefits of the QIT, the amount of income over the \$2,199 (or more than just that excess income) must be placed into the QIT each month so that the remaining "countable" income is \$2,199 or less each month. (It's not getting any more understandable, is it?)

Despite what I wrote two weeks ago, it is not entirely clear whether income should be placed directly into the QIT upon the income's arrival from the payer. Section H seems to conflict (at least partially) with the language of Section D(4) (discussed two weeks ago) on this point. The second sentence of Section H states, "Every effort should be made to have the individual's excess income deposited directly into the QIT account on a monthly basis."

Section D(4), however, states that the person cannot "cannot transfer or assign to the trust his or her right to receive income." Arranging a deposit directly into the QIT (what Section H seems to require) sure sounds like assigning the right to receive income (what Section D(4) prohibits.)

Now, perhaps (as discussed two weeks ago) the arrival of income into the person's hands must first be into a non-QIT account. The, money could be "transferred" into the QIT. Unfortunately, it's not clear that Section H refers to "transfers" of income from one account to another or "deposits" of income upon its first arrival. Section H uses both "transfer" and "deposit," and it's not clear that these terms mean different things in the QIT rule. The first clause of the first sentence of Section H refers to income being "transferred" into the QIT account, and the second clause of the same sentence refers to income being "deposited" into the QIT account. The second sentence also uses the word "deposited," adding to the confusion. In fact, Section H uses "transfer" once and "deposit" five times.

I believe that the rule means to have all income arrive into non-QIT account(s) and then get transferred into the QIT, but whoever wrote the rule did not make its intent clear. Perhaps, Ohio Department of Medicaid means "transfers" in Section H but used "deposits" because of sloppy writing or sloppy proofreading. Unfortunately, approximately \$5,000 - \$6,000 in Medicaid benefits for long term care costs is at stake each month for people who must comply with this rule. Is it too much to ask for clarity?

## Suggest a Newsletter Topic

I try to write something new (and useful) in my newsletter every week. So, I know that I will sometimes have writer's block. I'd like your help, please.

If you have a topic for my newsletter that you'd kindly suggest, I promise to consider it. (I don't promise to pursue it. I just promise to consider it.) I try to write about issues concerning seniors, health care, long term care, special needs, Veterans Pension (aka Aid and Attendance) benefits, and Veterans Compensation benefits. Please keep your suggestions within or near to those topics.

Please submit your suggestion [here](#). If I use your topic suggestion, I'll put the content in both my blog and newsletter.

Thank you for your help.

## Social Media Posts since the last newsletter

07-28-2016 One child with #SpecialNeeds shares feelings about her #Autism <http://ow.ly/n2C7302pNjj>

07-27-2016 #FamilyCaregiver needs to know the signs of possible

#MentalHealth issues in #OlderAdult <http://ow.ly/Jycv302pJUu>

07-26-2016 States considering public #LongTermCareInsurance <http://ow.ly/AtM6302pNUi>

07-25-2016 Do you want a #GrannyCam in your #AgingParent's #NursingHome? <http://ow.ly/IYgZ302pIMc>

07-24-2016 Great #Volunteer programs for #OlderAdults <http://ow.ly/S5m5302pLNP>

07-23-2016 #Travel tips with an #AgingParent <http://ow.ly/Aq7p302pHWE>

07-22-2016 #Ohio #Medicaid changes rules for #Aged #Blind #Disabled program - Changes to form #MillerTrust <http://wp.me/p47F09-11>

Older social media posts can be found in the [social media post archive](#) on the firm's website, [ProtectingSeniors.com](http://ProtectingSeniors.com).

## **The Koewler Law Firm News**

8-8-2016 Jim Koewler will discuss Medicaid for long term care at Sutliff II Apartments in Cuyahoga Falls, Ohio.

8-12-2016 Jim Koewler will discuss the changes in Ohio's system of Medicaid for long term care at a meeting of the leadership team of Bath Manor Special Care Centre in Akron, Ohio.

10-6-2016 Jim Koewler will discuss Veterans Benefits that Help with Long Term Care at Fairview Hospital in Cleveland, Ohio. Continuing education credit is available for Certified Case Managers, social workers, counselors, and nurses.

10-26-2016 Jim Koewler, as Chair of the Education Committee for the Medina County Senior Services Network, will help host a Caregiver Lifeline panel discussion at the Rustic Hills Country Club in Medina, Ohio.

12-14-2016 Jim Koewler will discuss Medicaid Qualifying Asset Transfers as part of a National Business Institute Seminar on Medicaid Lookback Rules and Planning in Cleveland, Ohio. Continuing Legal Education credit will be available.

Older items of firm news can be found in the [news archive](#) on the firm's website, [ProtectingSeniors.com](http://ProtectingSeniors.com).

## Jim's available presentations

- Changes in Ohio Medicaid eligibility rules for 2016
- ABLE accounts for people with Special Needs: Their Use and Misuse
- Ethical Issues in Case Management and Discharge Planning (Continuing Education credit and Ethics credit available for social workers, counselors, nurses, and Certified Case Managers)
- Veterans Benefits that Help with Long Term Care (Continuing Education credit available for social workers, counselors, nurses, and Certified Case Managers)
- Overcoming Seniors' Resistance to Long Term Care (Continuing Education credit available for social workers, counselors, and nurses)
- Preventing Senior Fraud (Continuing Education credit available for social workers, counselors, and nurses)
- My Care Ohio and Medicare/Medicaid "Dual Eligibles" (Continuing Education credit available for social workers, counselors, and nurses)
- Navigating Medicaid, Medicare, and the Affordable Care Act (Continuing Education credit available for social workers, counselors, and nurses)
- What people "Know" about Long Term Care that is Wrong (Continuing Education credit available for social workers, counselors, and nurses)
- Government Benefits that can help Pay for Long Term Care (Continuing Education credit available for social workers, counselors, and nurses)
- Legal Issues for People with Dementia (Continuing Education credit available for social workers, counselors, and nurses)
- Advance Directives – Powers of Attorney, Living Wills, etc. (Continuing Education credit available for social workers, counselors, and nurses)
- Buying Long Term Care Insurance Wisely (Continuing Education credit available for social workers, counselors, and nurses)
- Planning Ahead to Protect against Long Term Care Costs (Continuing Education credit available for social workers, counselors, and nurses)
- Organizing for Long Term Care (Continuing Education credit available for social workers, counselors, and nurses)
- Pre-planning your Final Arrangements (Continuing Education credit available for social workers, counselors, and nurses)
- Elder Law: A Primer (Continuing Legal Education credit available)
- Protecting your Money when you need Long Term Care and Essential Estate Planning Considerations (with free living wills for up to 20 audience members)
- Health Insurance for Families: The Affordable Care Act ("ObamaCare,") Medicaid, and Medicare
- Myths about Long Term Care Costs
- How to help your Parents Manage their Affairs
- Legal Lessons for Life

## Upcoming meetings

08-02-2016 Aging Services Network East, Euclid Hospital's  
Waltz Auditorium, Euclid, Ohio, 8:30 a.m.

08-02-2016 Montrose SeniorCare Networking Group, Panera Montrose,  
Bath, Ohio 8:30 a.m.

08-02-2016 Stow ElderCare Networking Group, Corner Cup Coffee House, Stow, Ohio, 9:00 a.m.

08-03-2016 Stark Senior Services Network, Myers Lake Ballroom, Canton, Ohio, 9:00 a.m.

08-03-2016 Richfield Chamber of Commerce luncheon, Days Inn and Suites, Richfield, Ohio, 11:45 a.m.

08-03-2016 Medina County Senior Services Network's Client Services Committee, Sully's, Medina, Ohio, 3:00 p.m.

08-10-2016 Medina County Senior Services Network, Medina County Home, Medina, Ohio, 8:00 a.m.

08-10-2016 Summit Senior Sales, Administrators and Marketers Association, Fairlawn Nursing & Rehabilitation, Fairlawn, Ohio, 2:30 p.m.

08-11-2016 Lorain County Senior Services Network, Woods at French Creek, Avon, Ohio, 8:30 a.m.

08-12-2016 Eldercare Professionals of Ohio, The Heights Care and Rehabilitation Center, Broadview Heights, Ohio, 9:00 a.m.

08-15-2016 Medina County Senior Services Network's Education Committee, Yours Truly, Medina, Ohio, 11:30 a.m.

08-16-2016 UH Bedford Medical Center Senior Network Mixer, Seven Hills Health and Rehab, Seven Hills, Ohio, 4:00 p.m.

08-17-2016 Professional Association Specializing in Seniors ("PASS"), Maplewood Senior Living, Chesterland, Ohio, 8:30 a.m.

08-23-2016 Summit County Senior Services Network, Kucko Anthony Kertesz Funeral Home, Akron, Ohio, 8:00 a.m.

08-23-2016 Wayne Holmes Senior Service Coalition, Wayne County Care Center, Wooster, Ohio, 8:30 a.m.

08-25-2016 Portage Senior Services Network, Family and Community Services Building, Ravenna, Ohio, 8:30 a.m.

08-25-2016 The Association of Specialists in Aging, Mentor Senior Center, Mentor, Ohio, 8:30 a.m.

08-26-2016 Eldercare Professionals of Ohio, Kemper House, Highland Heights, Ohio, 9:00 a.m.

## Newsletter Archive

Past issues of this newsletter can be found in the [newsletter archive](#) on the firm's website, [ProtectingSeniors.com](http://ProtectingSeniors.com).

## Contact Jim Koewler

If you'd like to contact Jim, this newsletter has a dedicated [contact page](#) on the firm's blog site, [ProtectingSeniorsNews.com](http://ProtectingSeniorsNews.com).

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