

Qualified Income Trusts – Eligibility for Medicaid Long Term Care

America is aging. Recent Census statistics show that the population increase of the elderly from 1981 to 2002 is nearly 36%. As life expectancies increase and baby boomers age, the need for proper estate planning has never been more critical.

One of the many major issues facing this increasingly large elderly population is that of Medicaid eligibility for those in need of long term care facilities (such as a nursing facility or home/ community based services). As of January 1, 2008, the Medicaid Income Cap (MIC) was \$1,911.00. Individuals whose monthly gross income exceed this cap may simply be disqualified from receiving proper Medicaid benefits. This is true even if

the applicant exceeds the cap by only a penny!

A possible solution in Tennessee is a Qualified Income Trust (QIT) (also known as a Miller Trust). A QIT is an irrevocable trust designed to hold the applicant's regular monthly income for the purpose of qualifying for Medicaid long term care benefits. Basically, the trust grantor transfers his or her monthly income (such as his/her Social Security or pension) into the QIT trust account and the Trustee pays approved payees out of that Trust account.



The key is this: income placed in a QIT cannot be counted when testing income against the cap! In short, a QIT allows an individual to receive monthly income in excess of the MIC and still qualify for long term benefits.

There are many requirements necessary to qualify for a QIT. For example, the Trustee is required to file annual accountings with the Department of Human Services (DHS). Also, upon death of the Grantor, the Trustee is required to notify DHS so that the remaining trust balance is paid to the State to reimburse it for the long term care expenses that it paid out.

Please contact our office for a listing of QIT qualifications or to simply see if you or a loved one would benefit from a Qualified Income Trust.

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MY LAWYERS

WINTER 2009

Teel, McCormack & Maroney emphasizes practice in the areas of:

- ◆ Personal injury and wrongful death
- ◆ Workers' compensation
- ◆ Social security disability
- ◆ Bankruptcy
- ◆ Residential and commercial real estate law including closings, title insurance, and title examinations
- ◆ Wills, trusts, probate, and estate planning/ administration
- ◆ Family law

If you have a legal matter not listed, you are invited to contact the firm for a referral or for additional information. Call us at 731-660-7777 or toll-free at 1-800-424-3777.

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Before Teel, McCormack & Maroney represents a client, we will need to spend time with you reviewing and analyzing the entire circumstances surrounding the potential legal matter.

This newsletter is designed to assist individuals for informational purposes only and does not constitute legal advice nor does it constitute the establishment of an attorney client relationship.

We hope My Lawyers is helpful and informative. If you have suggestions on how to improve this service, please contact us. Our website is www.tennesseeefirm.com.

This newsletter is also available in a PDF format. If you would like to receive it electronically, please email jteel@tennesseefirm.com.

The 2008 Year In Review

We want to thank all of our clients who made 2008 successful. It was truly an honor to represent you. Some highlights from 2008 include:

- Achieved a settlement in excess of \$1,000,000 for injuries sustained by family members in an automobile accident. One minor sustained a catastrophic injury to an upper extremity, and a structured settlement was successfully negotiated that will result in lifetime payments to the minor.
- Successfully resolved dozens of other cases for our clients involving personal injuries, on-the-job injuries or wrongful

death.

- Assisted nearly 100 individuals in obtaining disability benefits from the Social Security Administration, some resulting in very large back pay awards.
- Assisted hundreds of families in obtaining bankruptcy relief from their creditors.
- Assisted hundreds of families in purchasing homes or refinancing mortgages.
- Helped numerous families with domestic relation matters.

How can our firm help you in 2009? Call us at 660-7777 or toll-free at 1-800-424-3777.

Exchange Club's 'Flags of Freedom'

The Jackson Exchange Club presents "Flags of Freedom," in which it will display 1,500 American Flags on the south lawn of the Union University campus. The flags will fly from Saturday, April 25, 2009, through Sunday, May 3, 2009. The Official Dedication Ceremony is scheduled at 11 a.m. on Thursday, April 30, 2009, in Union University's Fred DeLay Gymnasium.

The flags represent the number of children that have lost their lives due to child abuse, according to recent statistics. The flags also honor our heroes – the service men and women that are currently serving or have served our country – as well as the first responders; EMS, police, fire fighters and medical personnel that keeps us all safe!

Flags can be purchased online at www.jacksonexchangeclub.com or from any Jackson Exchange Club member. Each flag can be dedicated "in honor of" or "in memory of" loved ones. Business sponsorships are available.



The Jackson Exchange Club continues to raise awareness and funds in the areas of Child Abuse Prevention, Americanism, Youth Projects, and Community Service. Its Flags of Freedom project encompasses all of these important areas. Thank you for your support of Flags of Freedom.

Any questions about "Flags of Freedom" can be answered by Matt West at (731) 660-7777 or contact Travis Hunt at (731) 499-1406.

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The "B" Word: Bankruptcy

Is the word "Bankruptcy" scary? Might it actually be the right option for you? In today's economic climate, many people are looking for ways to make ends meet and ways to make their economic situation more tolerable.

Perhaps you have tried 'debt consolidation' companies and have found that those companies are not very helpful. They may be taking your money, but your debt does not seem to be getting any smaller – and those creditors are still calling! But, you don't really know much about bankruptcy, so you are unsure if it's right for you.

Bankruptcy laws provide a respectable way for you to manage your debt, a fresh start to your financial life, and will end harassing calls from creditors. We can help you review your financial records and determine if filing for bankruptcy protection is the best option for you.

There are two basic bankruptcy options for consumers. First is what is referred to as a Chapter 7 bankruptcy. The second is what is referred to as a Chapter 13 bankruptcy. You may have heard of Chapter 7 referred to as a "liquidation." Under a Chapter 7, your unsecured debts are wiped away. If you have secured debts (debts with property attached to them), to keep

the attached property you must continue to pay those debts as they are. Most Chapter 7 bankruptcy cases are completed in about one year. Under a Chapter 13, which you may have heard referred to as a "reorganization," we can reorganize your secured debts, potentially lower the interest rates on your debts, and in some cases, reduce the amount of debt you are required to pay. As in the Chapter 7, your unsecured debts are typically wiped away. Chapter 13 cases last between three and five years, depending on your situation.

Each case is different, and we look at your individual situation to determine what options you have. When you call our office for help, we will set up an appointment for you to meet with one of our attorneys who will discuss your situation with you. All you need to bring is your last tax return, six months of your paystubs, and bills or statements from everyone to whom you owe money. We will also need to make copies of your drivers license, social security card, and proof of automobile insurance. We will be there with you along the way to ensure that your case is handled properly and to answer all of your questions. See, it's not as scary as you might have thought!

We're Marching for Babies

The March of Dimes' annual "March for Babies" event will take place on April 19, 2009, at the Jackson Fairgrounds.

This year, Teel, McCormack & Maroney has a team participating and is currently raising money for "March for Babies." Attorney Alissa Gay is a member of the March of Dimes Board of Directors and is the "Team Captain" for our firm. By April 19, the team's goal is to raise \$5,000 for March for Babies and to participate in its 3.5 mile walk.

If you would like to help our team raise money for the March of Dimes, you can do so on the internet by visiting www.marchforbabies.org/629946, where donations are accepted by credit card or paypal, or you can contact Alissa at our

office. The March of Dimes raises funds for research so that all babies may be born healthy and at full term. The March of Dimes also raises funds through the annual Taste of Jackson, Signature Chefs Auction, and Blue Jeans for Babies.



Congrats Ellen!

A national television audience was watching on January 24 as a New Miss America was crowned. Citizens of the Volunteer State were especially proud to see Miss Tennessee Ellen Carrington place 6th in the pageant. She was a terrific representative for our state.

This came as no surprise to us here at Teel, McCormack & Maroney. Before being crowned Miss Tennessee, Ellen worked in our office part-time while also attending Union University. We knew she would bring the same work ethic and professionalism we saw on a regular basis to the preparation required for the Miss Tennessee and Miss America pageants.

Now that the Miss America pageant is over, Ellen will continue to serve as Miss Tennessee this year before returning to Union to finish her studies. Congratulations, Ellen. Everyone here is proud of you!

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Selling Your Home in a Struggling Economy

With the economy struggling and the housing market down, many of you may have had your homes for sale for several months, with few prospective buyers making reasonable offers. This certainly is not the fault of your realtor, who is probably working harder than ever to try and obtain you a buyer in these market conditions. Some of you may have discussed with your realtor the possibility of leasing your home to generate some cash flow, especially if you have already vacated the home.

If you decide to lease, a well prepared lease agreement can save you from many of the perils that come with being a landlord. However, many of you may have had offers from prospective buyers asking you

to "Lease/Purchase" the home to them. Typically, this is because the buyers cannot currently obtain financing. With a well prepared "Lease with option to purchase", this type of purchase arrangement can sometimes work well for a property owner in today's market conditions. Here are the Basics of a Lease Purchase arrangement:

- Buyer pays the seller option money for the right to later purchase the property. This option money may be substantial.
- Buyer and seller agree on a purchase price, often at or a bit higher than market value.
- During the term of the option, the buyer agrees to lease the property from the seller for a predetermined rental amount.
- The term of the lease purchase agreement is negotiable, but the common length is generally from one year to three

years, at which time the buyer applies for bank financing and pays the seller in full.

- A portion of the monthly lease payment typically applies toward the purchase price.
- Option money is usually applied to the purchase price, but is nonrefundable, even if the buyer never obtains financing to purchase the property.
- Buyers are often responsible for maintaining the property and paying all expenses associated with its upkeep, including taxes and insurance.

If a "Lease with Option to Purchase" transaction looks like it may work for you, please discuss this with your realtor, and contact Clay McCormack at 731-660-7777 or clay@tennesseefirm.com for more information.

A new year always brings hope and the promise of the future. Ultimately, our greatest hope, and the hope of mankind, is in Jesus Christ. Our prayer for you in 2009 is that His presence will be real in your life and that this will be your best year yet.

The Apostle Paul said it better in 2 Thessalonians 2:16-17: "May our Lord Jesus Christ himself and God our Father, who loved us and by his grace gave us eternal encouragement and good hope, encourage your hearts and strengthen you in every good deed and word."

A Social Security Disability Update

The backlog in social security disability claims continues. For claims being handled by the Memphis Office of Disability Adjudication and Review the waiting time is an average of 505 days; for the Nashville ODAR it is an average of 528 days. The national average is 480 days. These statistics only show the waiting time AFTER a hearing with an administrative law judge is requested. In 2008, an average of 2,377 individuals PER DAY requested a hearing. You can see why there is a backlog, but the hearing request is only the last part of the process. All claimants will have already endured the

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long wait through the initial application process and reconsideration stage before asking for a hearing. Many disabled individuals have to wait over TWO YEARS to obtain their disability benefits from the Social Security Administration. Recently Congressman John Tanner was

appointed as the Chairman of the House Social Security Subcommittee which is a subcommittee of the U.S. House of Representatives. Attorney Jerome Teel of our office has contacted Congressman Tanner and asked that his subcommittee look strongly at recommending action to Congress to eliminate this tremendous backlog.

In other social security disability news, the Veterans' Administration issued a directive in October 2008 directing that VA medical staff respond to all requests from veterans regarding medical evidence for disability and SSI claims. VA medical staff must complete medical forms regarding the veteran's current health condition and functional impairment. This new directive from the VA should help veterans in obtaining much needed Physical Capacity Evaluations for use in social security disability hearings.

Injured? Need Help?

Many times clients say something like, "I was always skeptical of people making an injury claim until it happened to me." That skepticism is understandable on some levels. We've all heard injury claims that seem exaggerated. Some attorneys have advertised for business in such a way as to add to this impression.

There are times, however, when people are genuinely injured and are entitled to compensation. The difficulties caused by their physical injuries are then compounded by having to deal with a legal system that is unfamiliar. Many people simply do not understand their rights in such a situation. It is at this time that they realize people do need the advice of an experienced attorney.

Our firm has a reputation of handling injury cases in a professional manner for clients in courts across Tennessee – from Memphis to Nashville to Chattanooga to the Tri-Cities area. Many cases were compromised without the need for litigation. Others required our attorneys to argue before the Tennessee Supreme Court and the Sixth Circuit Court of Appeals in Ohio. If you have an injury claim, call us to better determine your legal rights. We would be honored to use our experience to serve you.