

What exactly is a Millers Trust or Income Cap Trust? Why it is used? What is the proper timing and circumstances under which the trust would need to be implemented? Not having the answers to these questions is no different than sailing a ship without a compass. So, let's tackle these questions...

In Arizona an individual or married person who is in need of nursing home care, or who is living at home and in need of home-care based services, is permitted to have \$2,000 in non-exempt assets. That same person is also only permitted to have a gross income (which includes the \$96.40 to \$308.30 taken out of one's monthly Social Security check for Medicaid Part B premiums each month depending on your yearly income) in the amount of **\$2,022 per month**. Thus, the problem exists as to what a Medicaid/ALTCS (Arizona Long Term Care Services) applicant can do in order to obtain eligibility if their income exceeds the income cap of \$2,022 per month.

Under Section 1396(p) of the United States Code Title 42, an **Income Cap Trust** also referred to as a (d)(4)(b) or **Millers Trust** more informally, is generally an irrevocable trust that (1) receives income assigned to it (usually social security or a pension); and (2) pays the monthly amount received to the state government health agency. With a Millers Trust, ALTCS will not recognize any income directed to the trust as being received by the person or a spouse in need of assistance. Once the Millers Trust is created, a bank account must be established with a zero beginning balance that will receive the income directly deposited each month. This account will then be assigned to the Millers Trust. This Trust only solves the problem of excess income, and unfortunately in some cases, it will not be able to resolve the excess income problem, if a person's or couple's income is in excess of \$5,158.40 (which is the private-pay room rate in Yuma County for 2009).

Timing is paramount when deciding to use a Millers Trust because (1) all assets that remain in the trust at one's death will be turned over to ALTCS; and (2) the trust is generally irrevocable. So, if a spouse is depending on joint income for monthly needs, then using the Millers Trust must be considered in light of the non-institutionalized spouse's needs. In some instances, an elder law attorney will be able to petition the ALTCS administrative court to increase the maximum monthly-needs allowance for the community spouse.

The ALTCS legal department in Phoenix must approve the Millers Trust that is submitted. It is important to plan out the timeline with an elder law attorney who is aware of the issues surrounding the approval process of this type of trust so that the trust is not submitted too early. If you are interested in scheduling an appointment with Attorney Robert M. Way to discuss these issues, call (928) 783-4575. Robert Way is a member of the Board of Directors of the Arizona Chapter of the National Academy of Elder Law Attorneys (NAELA).

Deason Law Firm
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Member of NAELA:
National Association of
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www.deasonlaw.com

Like most everything, The Deason Law Firm continues to evolve. We are taking an especially GIANT step forward this month with the unveiling of our new and improved website: www.deasonlaw.com.

We are proud to say that our re-designed website can take you to a level of Estate Planning information you never thought possible - Estate Planning ... made easier! We can do this because: Estate Planning is what we do!

You'll have so much Estate Planning information at your fingertips that Peace of Mind about your family's security is inevitable. You'll feel confident because knowledge brings understanding, and with topics of Estate Planning so easily accessible, you'll never wonder... "have I protected my estate and ensured that my legacy will pass to my loved ones".

If you do run into questions or get confused by anything... simply log on to: www.deasonlaw.com and find clear, straightforward information. You can email us with your questions or request a complimentary consultation. Contact anyone on our team at the Deason Law Firm - under the "OUR FIRM" tab (bottom right hand corner... "Meet Our Team").

You'll also have the ability to download free reports on various estate planning issues. Under the tab "REPORTS", find information about everyday issues such as: A Special Child Needs Special Planning; Aid & Attendance; Special Care Pensions for Wartime Veterans; Are Your Bank Accounts Safe? FDIC Insurance Can Cover You - With the Right Planning; Estate Planning with Individual Retirement Accounts (IRA's).

Our next Seminar can be found by looking under the "SEMINARS" tab. Coming in August... Medicaid Planning Seminar - Worried about Long Term Care Costs?

Also, find Estate Planning definitions under our SERVICES menu (click "Estate Planning Services" and go to the RESOURCE Menu on the bottom right hand column then click "Definitions"). Under the "NEWSLETTERS" tab on the top menu bar, easily download our monthly Elder Law and Estate Planning newsletter.

I urge you to visit our new and improved website. It will help make your estate planning decisions... easier. Estate Planning... It's What We Do!

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Worried about Nursing Home Costs?

FREE Medicaid Planning Workshop:

Thursday, August 13th at 9:30a.m. or 6:30p.m.
Yuma Civic & Convention Center

Reserve your seats at 783-4575

When you attend our seminar you'll learn:

- How you can be impoverished by nursing home costs.
- How proper planning can protect you.
- Why "traditional estate planning" won't help you with nursing home costs.
- How to use "Medicaid Triggers" in your planning.

CLIENTS...

If it has been more than 3 years since we've assisted you with your estate planning documents, then call 783-4575 today and schedule an appointment.

7 Reasons to Review Your Plan: 1. Second Families, 2. Heirs with Creditor Problems, 3. Disabled Heirs 4. Control Issues (Irresponsible Children and Irresponsible In-Laws), 5. Stale Documents, 6. Changes in the law, 7. Funeral Decisions.

At the Deason Law Firm, we are dedicated to helping our clients achieve their estate planning goals. Remember that there is no fee to have your estate plan reviewed.



Larry Deason

Larry Deason and Robert Way are members of the American Academy of Estate Planning Attorneys. The AAEP is a member organization serving the needs of legal professionals concentrating on estate planning. Through the Academy's comprehensive training and education programs on state-of-the-art estate planning law techniques, it fosters excellence in estate planning among its members and helps them deliver the highest possible service to their clients.



Robert Way

This is a complimentary, educational newsletter. If you are NOT interested in receiving this information in the future, please contact Mary at 783-4575.

Or current resident

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