



STATE OF MISSOURI
DEPARTMENT OF SOCIAL SERVICES
QUALIFIED INCOME TRUST

The _____ **Qualified Income Trust**
pursuant to 42 U.S.C. § 1396p(d)(4)(B)

This trust agreement established on _____, by and between _____ (the Grantor) who resides at _____, and _____ (the Trustee) who resides at _____.

By execution of this trust agreement, the Grantor intends to create a valid Qualified Income Trust pursuant to 42 U.S.C. § 1396p(d)(4)(B) and a valid trust under the laws of the State of Missouri. This trust is provided as a template of a Qualified Income Trust that will be acceptable to the Family Support Division in its current form and before any alterations to the language are made.

The state of Missouri is not the Grantor’s advocate, representative, or Trustee. The Grantor should consult with a licensed Missouri attorney for advice regarding the creation of this trust or an alternative version of this trust.

ARTICLE ONE: CREATION OF THE TRUST

1.1 Trust Name:

This trust shall be named the _____ Qualified Income Trust and all assets transferred to this trust shall be titled in the Trust name or in the name of the Trustee using the following format: “_____, Trustee of the _____ Qualified Income Trust.”

1.2 Lifetime Beneficiary:

The Grantor hereby establishes this trust for the benefit of _____, date of birth _____, hereinafter referred to as the Beneficiary of this trust. Pursuant to Article III of this trust, the trustee may use money owned by the trust for certain expenses incurred by the Beneficiary’s spouse, disabled child, or minor child, who is living with the Beneficiary.

1.3 Trust Property:

This trust shall be composed of only the Beneficiary’s pension, Social Security, and other income, including any accumulated income. The Trustee shall not accept assets belonging to the Beneficiary that would not be considered income for purposes of MO HealthNet eligibility. The Trustee shall also not accept income or assets from any other person into the trust. The property held in the trust is referred to in this instrument as the trust estate or trust property.

1.4 Transferring Property to the Trust:

By execution of this trust, the Grantor hereby directs that the Trustee as hereinafter named shall receive unto the trust at the very least, the portion of the Beneficiary’s gross monthly income that exceeds the income cap for the Missouri Qualified Income Trust (QIT) program as described in Article 2 of this trust. The Beneficiary agrees to transfer the said amount of income each month or upon receipt, within the same month the income is received, or otherwise within 10 days of receiving such income if less than 10 days remain in the month of receipt, to a bank or credit union account created pursuant to this trust (hereinafter referred to as the Trust Account).

The Trustee agrees to accept the Beneficiary’s income each month (or upon receipt) as a part of the trust estate and understands the trust shall be composed of only the Beneficiary’s income and any accumulated income, and that no other assets of any kind or income and assets from any other person shall be accepted as part of the trust estate by the Trustee. The Trustee agrees to administer the trust account according to the terms and conditions set forth herein.

1.5 Trust Irrevocability:

This trust is irrevocable and may not be altered or amended in any respect except by regulation promulgated by the Missouri Secretary of State and Department of Social Services. Further, it may not be terminated except as permitted by this agreement.

ARTICLE TWO: TRUST PURPOSE

“The purpose of this trust is to meet the requirements of 42 U.S.C. 1396p(d)(4)(B) and relevant state laws and regulations in order for the Beneficiary to qualify for the following programs, hereinafter collectively referred to as “QIT programs:” the Home and Community–Based Waiver Services (HCB) program for persons age 63 and over, and the MO HealthNet for Children with Developmental Disabilities (MOCDD) program for persons under age 18 who are living with their parents or family. The provisions of 42 U.S.C. § 1396p(d)(4)(B) apply to this trust only to the extent of determining the Beneficiary’s eligibility for QIT programs. Unlike other MO HealthNet programs for the Aged, Blind, and Disabled, QIT programs are available only to people whose income is below a prescribed maximum amount. This trust is a way by which a person whose income exceeds the maximum can still qualify for QIT programs. Any provision of this trust which would render the trust invalid under relevant federal or state law for this purpose shall have no force or effect.”

ARTICLE THREE: TRUST ADMINISTRATION DURING THE LIFETIME OF THE BENEFICIARY

3.1 Income Collection and Changes:

The Beneficiary agrees to transfer at least the portion of the Beneficiary's monthly income that exceeds the income cap for the relevant QIT program, into the trust account, within the same month the income is received or within 10 days of receiving the income if less than 10 days remains in the month of receipt. All parties to this trust understand that such income shall not be directly assigned to the trust or the Trustee as the payee of such income; otherwise this assignment could render the Beneficiary ineligible. Income can be transferred to the Trustee by direct deposit into the trust account, by automatic transfers between a personal account of the Beneficiary and the Trust account, or by the Beneficiary, or someone acting on the Beneficiary's behalf, by making any other regular deposit of the Beneficiary's income into the trust account. The trustee agrees to collect such amount and hold this amount as a part of the trust estate.

All parties to this trust understand that any changes in the Beneficiary's income or changes in the income cap for the programs identified in Article Two could result in changing the amount of income that is transferred to the trust each month. All parties to this trust shall keep the Missouri Family Support Division informed of all changes in income as well as any changes in the amount of income diverted to the trust each month, and agrees to report these changes, along with any other changes that may affect the Beneficiary's eligibility for MO HealthNet, within 10 days of the date the change occurred.

3.2 Allowable Distributions:

Distributions from the trust account shall only be used for the medical benefit of the Beneficiary or the Beneficiary's spouse or disabled/minor child who is living with the Beneficiary, including but not limited to payments for the Beneficiary's non-covered qualified medical expenses pursuant to section 208.151, RSMo 2018, expenses for remedial care received by the participant, payment of health insurance premiums for health insurance coverage of the beneficiary other than MO HealthNet, expenses for necessary dental care, auditory care, psychological services, supplemental nursing or physical therapy care, and rehabilitation services, expenses for medically necessary improvements and/or alterations on real estate, transportation expenses for travel to and from medical/care appointments, trustee bonds required by this rule, bank fees related to an account held under the qualifying income trust, reasonable legal fees incurred in order to create and maintain the trust, reasonable guardianship fees, reasonable fees to pay a non-profit organization that establishes and manages pooled special needs trusts pursuant to 42 USC § 1396p(d)(4)(C) to create and maintain the trust, and reimbursement to the beneficiary for out-of-pocket expenses paid by the beneficiary for one of the services identified in this section. Payments from this trust for personal care are subject to the requirements of section 208.213, RSMo. 2018.

3.3 Costs of Operation:

Trustees are authorized to charge the trust a trustee fee not to exceed the lesser of 3% of the amount of income being diverted into the trust, or ten dollars (\$10), per month. If the trustee is the Beneficiary's spouse or disabled child living with the Beneficiary, the trustee is not authorized to receive a fee. If the trustee is a commercial trustee that is not an entity in which the Beneficiary, Beneficiary's spouse, or a relative of the Beneficiary has a controlling ownership or management interest, the trustee may receive a commercially reasonable fee. Other costs of operation that are considered as an allowable disbursement from this trust are trustee bonds required by state law or regulations governing qualifying income trusts, bank fees related to the trust account, reasonable legal fees incurred in order to create and maintain the trust, reasonable guardianship fees, and any taxes incurred by the trust.

3.4 Disallowed Distributions:

The Trustee may make distributions only as allowed in sections 3.2 and 3.3 of this trust. Any distribution made from this trust that is not allowed by sections 3.2 and 3.3 may affect the Beneficiary's eligibility for QIT programs unless the Trustee restores the actual funds that were used in the disallowed distribution.

3.5 Trust Accounting and Reporting:

The Trustee shall keep full trust accounting records that include the monthly income deposits and monthly disbursements and the running balance in the trust account. This accounting should provide verification that the deposited income belongs solely to the Beneficiary, and any other deposits would need to be accounted for either as interest or as otherwise explained. The disbursements made from the account will need to be accounted for to verify that they are allowable disbursements as mentioned in sections 3.2 and 3.3 and made for either the Beneficiary or another allowable recipient as described in section 3.2. The Trustee shall provide a full report covering the previous year to the Missouri Family Support Division (FSD) at each annual eligibility review, and as needed by the Division to determine eligibility for another program, or if FSD's information conflicts with the information on the report. The Trustee shall provide such report within 10 days of the request. The Trustee understands that failure to cooperate with this provision could result in the termination of the Beneficiary's case.

ARTICLE FOUR: TRUST ADMINISTRATION UPON DEATH OF THE BENEFICIARY OR TERMINATION OF TRUST

This trust shall terminate upon the death of the Beneficiary, or prior to the death of the Beneficiary for reasons approved by the Missouri Department of Social Services, and final disbursement of all remaining assets shall be made as instructed in this Article.

4.1 Reimbursement for Medical Assistance:

The trustee shall distribute assets remaining in the trust upon the death of the Beneficiary, after the payment of all reasonable expenses necessary to carry out the purposes of this section 4.1, taxes, or as otherwise required by law, to the State of Missouri, in an amount equal to the amount of MO HealthNet benefits paid by the State of Missouri on behalf of the Beneficiary. This distribution shall be clearly identified and sent directly to the MO HealthNet Division, Attention: Cost Recovery Unit, PO Box 6500, Jefferson City, MO 65102.

4.2 Remaining Assets:

After payment to the State of Missouri has been made, if any assets remain they shall be:

ARTICLE FIVE: TRUSTEE

5.1 Trustee:

_____ shall serve as the Trustee and shall be authorized to act on behalf of the Trust. Under no circumstances shall the Beneficiary be allowed to serve as the Trustee. If the Trustee fails to act or is unable to serve in such capacity for any reason, the Trustee shall deliver a letter of resignation to the Grantor and Beneficiary indicating the date the Trustee's resignation is effective. Upon such date of resignation if not sooner, the Trustee shall deliver to the Grantor and Beneficiary a complete accounting of the trust account including all transactions made on such account as described in Section 3.4 through the date of such resignation.

5.2 Successor Trustee:

In the event the Trustee shall resign or become unable to serve as Trustee for any reason, the Grantor names _____ to be the Successor Trustee, who shall assume all responsibilities of the original Trustee and will be authorized to act on behalf of the Trust the same as the original Trustee and is subject to the terms and conditions of the trust. Upon acceptance as the Successor Trustee, the Grantor shall deliver the Trust Accounting records to the Successor Trustee to continue such accounting as described in Section 3.5 from the date of acceptance and ongoing.

5.3 Powers of the Trustee:

Subject to the provisions of this trust, the Trustee(s) shall have all the title, rights, powers, and privileges and duties otherwise conferred and imposed upon Trustees by Missouri law. In the event the Trustee shall become incapacitated or similarly unable to act for any reason, the remaining trustee, or a designated successor trustee, shall assume all responsibilities of the original Trustee.

5.4 Trustee's Bond:

Unless the Trustee is the Beneficiary's spouse or disabled child living with the Beneficiary, the Department of Social Services may require the Trustee to give bond to secure the faithful performance of the Trustee's duties, unless such bond is waived by the Department of Social Services.

ARTICLE SIX: RULES OF CONSTRUCTION

6.1 Authority to Initiate Proceedings for Eligibility:

In determining whether the existence of this Trust has the effect of rendering the Beneficiary ineligible for any public assistance program administered by the Department of Social Services, the Trustee is granted full and complete discretion to initiate action in order to render the Beneficiary eligible for the QIT programs identified in Article Two, and to initiate administrative or judicial proceedings, or both, for the purpose of determining eligibility. All costs relating thereto, including attorney fees, shall be charged to the Trust and otherwise considered as an allowable disbursement.

6.2 Governing Law:

The laws of the State of Missouri and of the United States shall govern all questions as to the validity and construction of all trusts created by this instrument.

6.3 Gender Neutral:

Words in any gender shall be deemed to include the other gender, the singular shall be deemed to include the plural, and vice versa.

6.4 Headings:

The section headings of this trust agreement are for reference purposes only and are to be given no effect in the constitution of interpretation of the trust.

6.5 Spendthrift Provision:

Neither the income nor the principal of this trust may be assigned, anticipated, encumbered, alienated, or otherwise involuntarily or voluntarily transferred in any manner by any Beneficiary. The estate recovery provision in Section 4.1 of this trust is protected from creditors and other claims against the Beneficiary's estate pursuant to section 473.398, RSMo. 2018.

IN WITNESS WHEREOF, the parties have executed this instrument on the day and year first above written and this trust is effective on the date executed.

GRANTOR	DATE	TRUSTEE	DATE
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STATE OF MISSOURI)
) ss.
COUNTY OF _____)

On this ____ day of _____, 20____, before me personally appeared _____, known to me to be the person who executed the foregoing instrument as **Grantor** and acknowledged that s/he executed the same as his/her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office on the day and year first above written.

Notary Public
My commission expires:

STATE OF MISSOURI)
) ss.
COUNTY OF _____)

On this ____ day of _____, 20____, before me personally appeared _____, known to me to be the person who executed the foregoing instrument as **Trustee** and acknowledged that s/he executed the same as his/her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office on the day and year first above written.

Notary Public
My commission expires: