To whom it may concern:

This e-mail provides you and your organization with advance notice that the New Jersey Department of Human Services anticipates proposing amendments to N.J.A.C. 10:71, Medicaid Only, regarding the use of, and treatment of, Special Needs Trusts (SNT) in establishing an applicant’s eligibility for Medicaid benefits in New Jersey, and also to establish requirements regarding the use of Qualified Income Trusts (QIT) in the Medicaid program.

It is anticipated that the major topics of the proposed amendments will include, but not be limited to:

* Updating citations to relevant provisions of State and Federal law concerning the use and treatment of trusts as related to the establishment of Medicaid eligibility.
* Establishing timeframes and providing submission information for filing SNTs and QITs and related and ongoing supporting documentation including, but not limited to, annual trust accountings, trustee information, and court orders.
* Clarifying that a SNT shall not be part of another trust except as permitted under 42 U.S.C. 1396p(d)(4)(C).
* Establishing requirements regarding the use of qualified income trusts (QIT), sometimes known as Miller Trusts, including that QITs may be used in establishing eligibility for institutional level of care services.
* Clarifying that SNTs and QITs must be signed and notarized, and Schedule A must be attached with a list of the specific income to be deposited and the trust bank account information included.   Proof of funding must be provided to the eligibility determination agency.
* For an SNT, specifying that if the trust agreement, or the administration of the trust agreement, fails to comply with any applicable provisions of N.J.A.C. 10:71-4.11(g), the full value of the SNT corpus, including assets held by the trust, and any consequent effect on the trust beneficiary’s eligibility for Medicaid/NJ FamilyCare, shall be governed by the trust rules under N.J.A.C. 10:71-4.11(a)-(f), both existing and future, and the Division may, as a result, deny or terminate Medicaid benefits, impose a transfer penalty, and/or recover the cost of any or all amounts that determined to be incorrectly paid benefits by any State agency on behalf of the trust beneficiary.

This notice provides you with an opportunity to comment on the upcoming amendments by **July 31, 2018.**

All State Agencies:  Please post this notice in a public place until the end of the comment period.

**NOTE:**  You will be notified by this office of the publication date of any formal proposed rulemaking, which will include 60-day public comment period during which formal comments will be accepted.

Please send any comments that you have regarding this advance notice of rulemaking to:

Margaret M. Rose   Attn: SNT/QIT Advance Notice

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