



# Elder Law Advisor

*Your Trusted Guide on the Elder Care Path*

## Will My Loved One Need An Income Cap Trust to Get Medicaid Benefits?

Applying for Medicaid assistance to help pay for the cost of long-term nursing home care has always been a confusing process. It is pretty rare for a person to be able to apply for Medicaid and be eligible right away. There is almost always some advance planning required. For many Medicaid applicants, that planning includes the creation of something called an Income Cap Trust.

Many states, including Oregon, have something called an "Income Cap." The Income Cap rule states that if your monthly income is over a certain amount (currently \$2,022 per month), you do not qualify for Medicaid long-term care assistance. This is true even if you have care costs that far exceed your income. For example, if your monthly Social Security and pension income is \$2,200 per month, and your care costs are \$6,000 per month, you do not qualify for Medicaid since your income is higher than the Income Cap.

This used to be a real problem for people, and many years ago, the only answer was to move to another state that did not have an Income Cap rule. Fortunately, the laws have changed, and a person whose income is over the Income Cap can now become qualified for Medicaid assistance by setting up a special type of trust known as an Income Cap Trust.

An Income Cap Trust is designed to hold the Medicaid applicant's pension and Social Security income. A bank account is set up in the name of the Income Cap Trust. Each month, all of the ill person's income is deposited into the Income Cap Trust account. So long as the trustee of the Income Cap Trust (usually a spouse, partner or adult child) agrees to spend the income in a manner approved by Medicaid, the ill person will not be disqualified from receiving Medicaid assistance, even though his or her income is over the Income Cap.

An experienced elder law attorney can be of tremendous help in this process. Most importantly, the elder

law attorney prepares a plan for the spending of the ill person's monthly income in accordance with the Medicaid rules, and submits the plan to Medicaid for approval. There are ways to design the "spending plan" in a way that provides the maximum benefit to the ill person and a healthy spouse. An experienced elder law attorney can make sure you don't miss out on these opportunities.

Remember that an Income Cap Trust takes some time to set up. You don't want to get all of the way through a Medicaid application and be told "your application would be approved, but where is your Income Cap Trust?" Having your Income Cap Trust established at the right time can prevent long delays in Medicaid eligibility. At an average nursing home cost of \$6,500 per month, a delay in your Medicaid application can prove very costly.

Do you know someone with a loved one who is in long-term care, or may need it in the future? Please pass this newsletter along to them, so they will know about the need to plan in advance. You may save them from a stumble upon the Elder Care Path.

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<p><b>FREE SEMINAR</b></p> <p><b>HOW TO PAY FOR LONG-TERM CARE</b> with <b>Geoff Bernhardt</b></p> <p><b>Monday, June 29th</b> 7:00 p.m. Avamere Bethany 16360 NW Avamere Court Portland 97229</p>	<p><b>FREE ELDER LAW SEMINAR</b> with <b>Julie Lohuis</b></p> <p><b>Monday, July 27th</b> 3:00 p.m.</p> <p><b>Russellville Park West</b> New Theatre 20 SE 103rd Portland 97216</p>
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### Free In-Service Training Available

Topics in Estate Planning are:

- Wills and Living Trusts
- Financial Powers of Attorney
- Advance Directives for Health-care
- Probate
- Planning for Mid-Life & Beyond
- Asset Protection & Financial Estate Planning

Topics in Elder Law include:

- Medicaid Planning & Division of Assets
- Special Needs Trusts
- Asset Protection Plans
- Guardianship/Conservatorships
- End of Life Decision Making
- Long Term Care Cost Planning
- Veteran's Benefits

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