

Starting Soon...

# ***Using a Pooled Trust to Qualify for Medicaid Home Care***

April 10, 2023

**Frank E. Hemming III, Esq.**  
Senior Associate Attorney,  
Pierro, Connor & Strauss

**Sarah Grimes**  
Director of Outreach &  
Community Relations,  
NYSARC Trust Services



# Welcome

- ▶ **Your Lines Are Muted**
- ▶ **Type Questions in the Q&A Section at the Bottom of Your Screen**
- ▶ **Presentation is Posted: [Pierrolaw.com/Resources](https://Pierrolaw.com/Resources) Under Medicaid Planning**
- ▶ **Fill Out Our Survey with Feedback**



# Agenda

- 2023 Medicaid Numbers: Review
- Case Study
- Pooled Trusts: How They Work
- Trust Administration Rules and Best Practices
- Asset Protection and Pooled Trusts: The Results



# MEDICAID INCOME & ASSET LIMITS INCREASED IN 2023

Landmark Medicaid Increases Passed in NYS Budget:  
Same income limit will be used for younger people under  
Affordable Care Act and for Age 65+, blind & disabled

YEAR	INCOME / MTH		ASSET LIMIT	
	SINGLES	COUPLES	SINGLES	COUPLES
2023	\$1,677 + \$20	\$2,268 + \$20	\$30,182	\$40,821
<b>Difference over 2022</b>	<b>+\$743</b>	<b>+\$901</b>	<b>+\$13,382</b>	<b>+\$16,221</b>

Institutionalized Individual Income Allowance remains the same: \$50



# Case Study: John Needs Medicaid, Wife Mary is Healthy and at Home

- ▶ John is 85 and suffers from hearing loss, chronic back pain, and heart failure. He needs assistance at home with daily tasks so that he can remain independent for as long as possible
- ▶ Mary is 80 and is in good health, but cannot care for John by herself any longer as his health has declined.
- ▶ The family has been paying an aid to come a few days a week, but they are quickly depleting their savings.
- ▶ John applied for Medicaid but was told that his income is too high to qualify.



# John and Mary's Assets

- ▶ Home – (EXEMPT)
- ▶ Savings – \$150,000 (was close to \$200,000 when care need arose for John)
- ▶ John's IRA – \$100,000 (EXEMPT)
- ▶ Mary's IRA – \$50,000 (EXEMPT)
- ▶ Car
- ▶ Life Insurance – \$75,000 cash value
- ▶ How did they become asset eligible?



# Medicaid Asset Protection Trust (MAPT)

- ▶ Covered in detail last month in Medicaid Monday
- ▶ “MAPT” is for John and Mary’s house, cash (\$70,000), life insurance(\$75,000)
- ▶ But what about their income?

# Household Income Numbers

## John's Monthly Income:

\$2,500 Social Security check  
\$2,000 Pension check  
\$500 IRA distributions  
John Total - \$5,000.00 per month

## Mary's Monthly Income

\$1,000 Social Security Check  
\$800 pension  
\$200 IRA distributions  
Mary Total - \$2,000.00 per month

**Total Household Income = \$7,000/mth**

**OPTION 1:** Spousal Budgeting - \$3,715.50 per month total for Mary  
(\$1,715.50 is contributed by John)

- John's Income - \$591 per month, which is the difference between a 1 person household income allowance (\$1,697) and a 2 person household income allowance (\$2,288)
- John's remaining income of \$2,693.50 will have to spent down or paid to their local Dept. of Social Services

**OPTION 2:** Pooled Trust Budgeting – John is allowed to have \$1,697 of monthly income, and the remaining amount of \$3,303 is contributed to a **pooled income trust**.

***\*Excess monthly income is determined by Medicaid.***



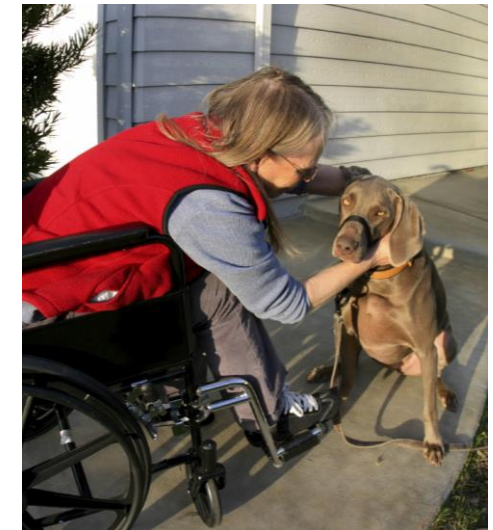
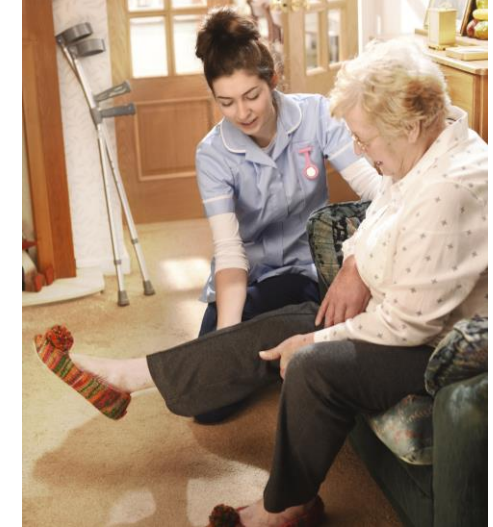
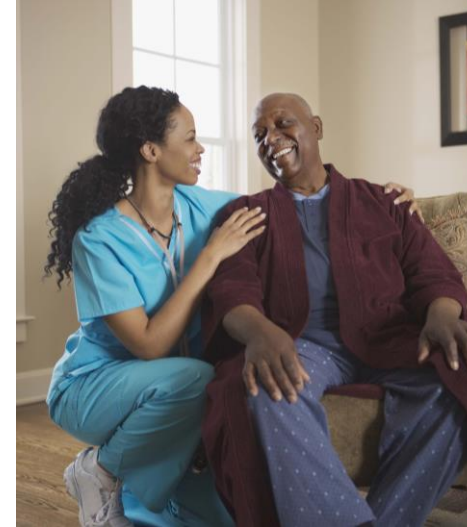
# What is a Pooled Trust?



- Allowable under Federal and New York State statute
- A **pooled trust** is a special type of **irrevocable supplemental needs trust (d4C)**
- Must have a qualifying disability under SSA definition
- Non-profit manages funds for trust beneficiary
- Funds pooled for management purposes
- Activity tracked separately in sub-accounts
- Medicaid payback provision at death

# Who Can Use Pooled Trust?

People with disabilities and adults over age 65 can **protect income and assets** in a pooled trust to qualify and maintain eligibility for Community Medicaid and home care services.



# Benefits of a Pooled Trust

## **Allows Community Medicaid applicants to:**

- Qualify and maintain continuous coverage
- Live independently at home
- Pay monthly living expenses
- Life enhancing purchases to supplement care
- Qualify for Medicare Savings Program

## **Community Medicaid**

- Basic health benefits
- Transportation
- Dental
- Long-term care services
  - Adult day care
  - Home Care/CDPAS
  - Assisted Living/ALP
- Waiver Programs (NHTD, TBI, OPWDD)

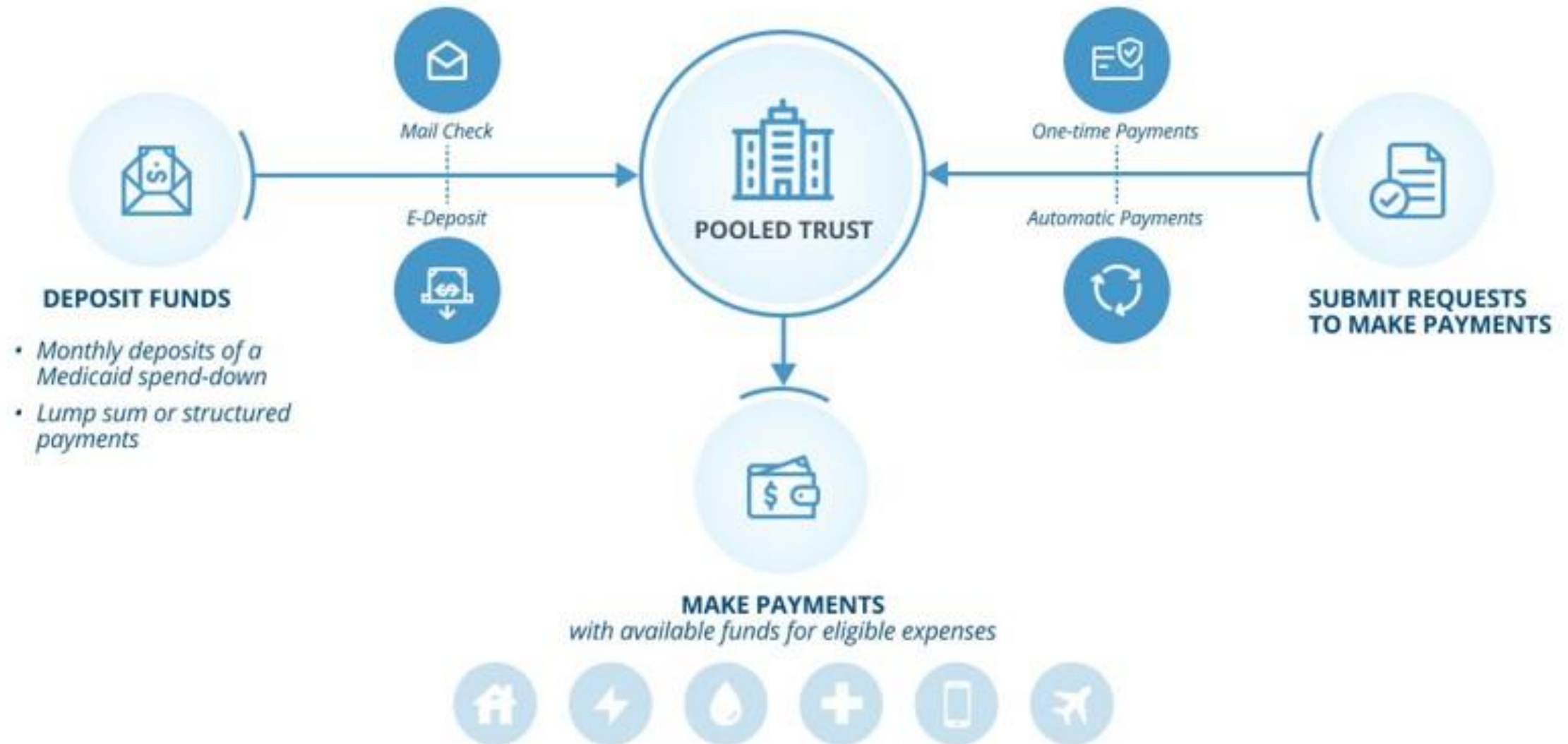
**Deposit “excess income”  
electronically from bank  
account or by check**



## How to Spend- Down Income in a Pooled Trust?

“Income directly diverted to an exception trust, or income received and then placed into the trust is excluded when determining income eligibility for a certified disabled individual under community rules.” ([GIS 19 MA/04](#))

# How a Pooled Trust Works





# Trust Administration Rules

- ▶ All disbursements must be for **primary benefit** of the trust Beneficiary
- ▶ Each request reviewed individually to **consider impact on benefit eligibility**
- ▶ Disbursements must be substantiated by supporting documentation
- ▶ Disbursements are paid directly to third parties (individuals or a business)
- ▶ No cash withdrawals or payments directly to beneficiary, their spouse, or Guardian
- ▶ Distributions are made at the sole discretion of the trustee
- ▶ Federal policy that no disbursements can be paid from the trust after death

# What Can John's Trust Pay For?

**John's Excess Income = \$3,303/mth**

- Approx. \$213 monthly cost of pooled trust

**Available Balance\* = \$3,090/month**

- \$300 electric bill\*\*
- \$200 cable/cell phone
- Home expenses – taxes, improvements, mortgage payments, maintenance, appliances, etc.
- Additional Care if Medicaid isn't providing enough
- Family caregiver under a contract or caregiver agreement

*\*Approximate monthly cost and available funds for purposes of example.*

*\*\*Requests that are the same amount each month may be eligible for automatic payment.*

# What Can a Pooled Trust Pay For?

Trust typically pays basic living expenses for a person only receiving Medicaid services.

- ▶ Mortgage/Condo\*
- ▶ Rent\* - to landlord or family (not spouse)
- ▶ Household bills and expenses\*
- ▶ Vehicles/Travel expenses
- ▶ Personal items
- ▶ Irrevocable pre-need funeral/burial
- ▶ Recreational and cultural experiences
- ▶ Uncovered medical expenses/OTC items
- ▶ Special Therapies
- ▶ Companionship services and much more!

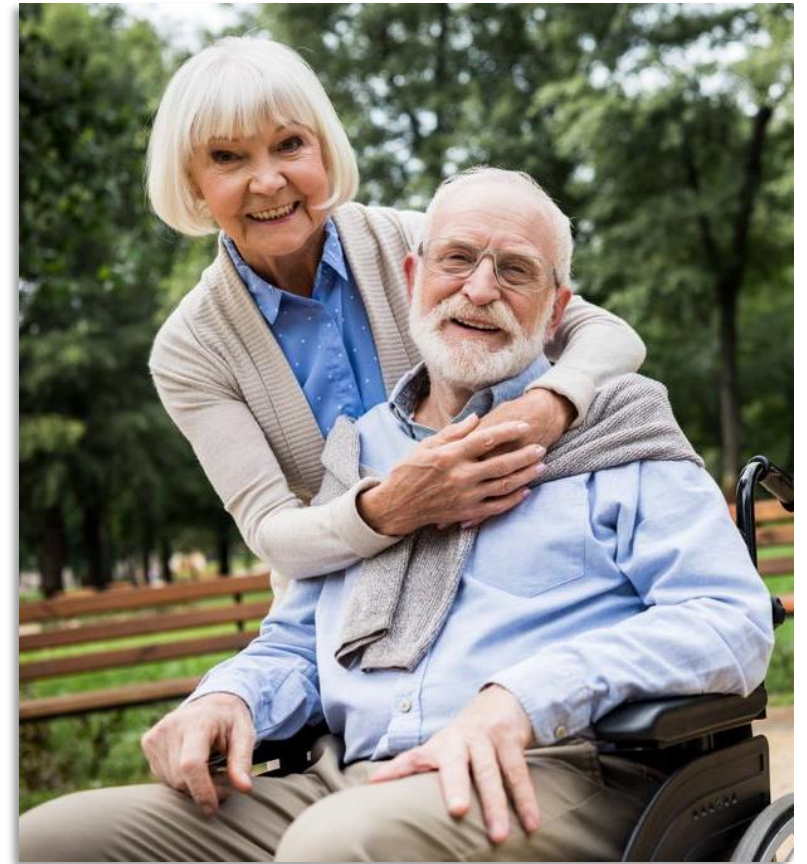
\* For SSI recipients, payment towards food and housing expenses may reduce benefits

# Best Practices to Improve Experience

- ▶ Choose a few larger bills
- ▶ Select bills that can be paid automatically
- ▶ Larger vendors paid electronically
- ▶ Always send the same bills to the trust
- ▶ Submit requests immediately and regularly
- ▶ Download bills online rather than waiting for paper statements
- ▶ Pay bills on a credit card and send one request each month

# Results for John and Mary

- ▶ All of John's income (other than small monthly administrative fee) can be used towards household expenses and NOT spent down.
- ▶ Assets already protected by completing irrevocable trust plan that was used to create Medicaid eligibility





# **MONTHLY MEDICAID MONDAY WEBINARS**

**May 8, 2023  
Navigating Nursing  
Home Medicaid**

**REGISTER:**

**<https://www.pierrolaw.com/events/>  
(518)459-2100**

- Explain Medicaid Eligibility for Nursing Home Coverage
- How Medicaid Eligibility for Nursing Home is Different From Home Care
- Explaining the 5 Year Look Back
- Offering Options and Solutions to Protect Assets Even When No Planning Has Been Done Previously



# RESERVE YOUR SEAT!

<https://www.pierrolaw.com/events/>

- Thurs., May 11
- 8:30am-3:00pm
- The Desmond, Albany
- Or Live Stream
- Free to Attend
- 6 CEUs for Social Workers



**(518) 459-2100**  
info@pierrolaw.com  
www.pierrolaw.com

**Thank You! QUESTIONS?**



**(518) 439-8323**  
trustdept@nysarc.org  
www.nysarctrustservices.org