

_____ QUALIFIED INCOME TRUST

[Name of Beneficiary]

_____ [name of settlor] hereby creates a trust, to be known as _____ [name of primary beneficiary] Qualified Income Trust and to be governed by the terms set out below:

The primary beneficiary of the trust is _____. The purpose of this trust is to assure eligibility of the primary beneficiary for medical assistance program benefits.

The property to be placed in the trust is the income received by the primary beneficiary from the following source(s):

1. _____
2. _____
3. _____

No property other than the primary beneficiary's income may be placed in the trust. The trust may receive any or all of the primary beneficiary's income, but the entire amount of income from each income source shall be deposited directly in the trust account or deposited in the trust account in the same month the income is received by the primary beneficiary.

The Trustee shall make distributions from the trust in amounts and for the purposes necessary to maintain eligibility of the primary beneficiary for medical assistance program benefits, notwithstanding any other provision of this document. Among the requirements of the medical assistance program at the time of establishment of this trust, which the Trustee shall meet as long as and to the extent required, is the

requirement that the trustee make payments from the trust in the following priority, no later than the last day of the month after the income is received by the trust:

1. A monthly personal needs allowance for the primary beneficiary;
2. A sum to the spouse of the primary beneficiary, if any, sufficient to provide but not exceed the minimum monthly maintenance needs allowance for the spouse as provided by Title XIX of the Social Security Act;
3. Incurred medical expenses of the primary beneficiary as defined by the Medicaid program;
4. The cost of medical assistance provided to the primary beneficiary;
5. Payments to or on behalf of the primary beneficiary that will not result in the loss or reduction of benefits available to the beneficiary from the medical assistance program.

_____ (name of initial trustee) shall serve as Trustee of this trust. In the event the Trustee resigns, becomes legally incapacitated or dies while holding office, _____ (name of successor trustee) shall serve as successor Trustee. Any trustee may, while serving as trustee, appoint one or more successor trustees. If there is no named trustee eligible or willing to serve as trustee, any interested person may apply to be appointed trustee in accordance with Texas Property Code §113.083. No bond shall be required for any Trustee. The Trustee shall have all powers given to a Trustee by the Texas Trust Code.

The Trust's assets, income and distributions shall not be subject to anticipation, assignment, pledge, sale or transfer in any manner, nor shall the primary beneficiary have the power to anticipate or encumber such interest nor shall such interest, while in the possession of the Trustee, be liable for, or subject to the debts, contracts, obligations, liabilities or torts of the primary beneficiary.

This trust is irrevocable. This trust shall terminate upon the death of the primary

beneficiary. Upon the death of the primary beneficiary, the Trustee shall distribute to the Texas Health and Human Services Commission or its successor agency any remaining trust property up to an amount equal to the total medical assistance paid on behalf of the primary beneficiary by the State of Texas. The Trustee shall distribute any remaining trust property to

_____ [name(s) of distributee(s)].

Signed the _____ day of _____, 20_____.

Settlor

Initial Trustee

SAMPLE