**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

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| Register in Chancery  Kent County  38 The Green, Ste. 208  Dover, DE 19901  302-735-1930 | Register in Chancery  New Castle County  500 N. King Street, Ste. 11600  Wilmington, DE 19801  302-255-0544 | Register in Chancery  Sussex County  34 The Circle  Georgetown, DE 19947  302-856-5775 |

**Procedures for filing a Petition to Establish a Miller Trust**

* The petition to establish a Miller Trust requires the following:
* A completed petition. The court clerk cannot complete the petition for you.
* The filing fee for the petition is $35.00 plus a $2.00 per page scanning fee. Payment must be received at the time of filing, or the petition will not be accepted by our office. We accept cash, check or money order (made payable to the “Register in Chancery”).
* A copy of the proposed Miller Trust must be filed with the petition. The Court cannot assist you in drafting the Miller Trust.
* If you have a letter from Medicaid requiring a Miller Trust to be established, you must file a copy of that letter with your petition. Once the person with a disability is approved for Medicaid, the guardian(s) must provide a copy of that approval letter to the Register’s Office.
* It is the petitioner’s responsibility to provide the Court with photocopies of all supporting documentation. If the Register in Chancery’s office makes photocopies for you, we will charge $1.50 per page.
* The petitioner(s) is/are responsible for obtaining consents from the interested parties or sending notice of the petition to the interested parties by certified mail. Please review the enclosed instruction sheet for additional instructions on notifying the interested parties.
* Please call the respective county in which you filed the petition should you have any questions.
* Court’s website <https://courts.delaware.gov/chancery/guardianship/index.aspx>

*Form CM 50*

*Rev. 05/2022*

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

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| IN THE MATTER OF:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  A person with a disability | :  :  :  : | C.M. # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**Petition to Establish a Miller Trust**

1. Name of guardian(s): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. Date guardians(s) was/were appointed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
3. The person with a disability is currently a resident at this facility, \_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and the monthly cost of the facility is $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

1. Information about the monthly income received by the person with a disability:
   1. Social Security: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
   2. Pension: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
   3. Other: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. The income received by the person with a disability exceeds the income limit for Long-Term Care Medicaid. In order to qualify for Long-Term Care Medicaid to pay the cost of his/her care, the guardian(s) must execute a Miller Trust and establish a bank account titled in the name of the Trust in which to deposit his/her monthly income. The guardian(s) also seeks permission to serve as trustee of the Miller Trust.
3. A copy of the proposed Irrevocable Income Trust Agreement, also known as a Miller Trust, is attached as Exhibit “A”.
4. The names and addresses of any potentially interested party which includes the spouse and any next-of-kin who would be entitled to inherit through the estate of the person with a disability if that person died intestate. If an interested party is a minor, please provide the name and contact information for the minor’s parent or other guardian as the parent or guardian will require notice.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name of**  **Interested Party** | **Relationship to person with a disability** | **Address and Phone number**  **of Interested Party** | **Age** |
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WHEREFORE, Petitioner(s) respectfully requests that this Court:

1. Authorize the guardian(s) to execute the Miller Trust Agreement attached to the petition as Exhibit “A” and
2. That the petitioner(s) be authorized to open a Miller Trust account at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Bank into which the income will be deposited and expenses paid.

Guardian Co-Guardian (if applicable)

|  |  |
| --- | --- |
| I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.  Executed on the \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_ (month) \_\_\_\_\_ (year).  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (Guardian’s Printed Name)  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Guardian’s Signature)  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (Guardian’s Address)  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (Guardian’s Address)  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (Guardian’s Phone Number) | I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.  Executed on the \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_ (month) \_\_\_\_\_ (year).  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (Co-Guardian’s Printed Name)  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Co-Guardian’s Signature)  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (Co-Guardian’s Address)  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (Co-Guardian’s Address)  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (Co-Guardian’s Phone Number) |

**INSTRUCTIONS FOR NOTIFYING INTERESTED PARTY(IES) OF PETITION TO ESTABLISH A MILLER TRUST**

It is the petitioner’s(s’) responsibility to notify the interested party(ies) when a petition to establish a Miller Trust is filed with the Court. This includes notifying all of the parties you listed on number seven (7) of your petition.

Each interested party may sign a copy of the attached “Consent to Petition”. If any interested party does not sign the consent form, you must send them via regular U.S. mail, a “notice of petition” and a copy of your petition.

You must file the following documents with the Court:

* 1. Any and all signed consent forms, and/or
  2. The attached “Certificate of Mailing” for any notices mailed to individuals who did not sign a consent form.

Any interested party who has not signed a consent must receive notice of your petition by certified mail at least thirteen (13) days before the Court will consider your petition. This ensures that all interested parties have adequate time to contact the Court with any questions they may have or file any objection to the petition.

If you do not know the address for an interested party, you must make every attempt to locate the address and file the enclosed affidavit of efforts to locate address of interested party with the Register’s Office.

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

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| IN THE MATTER OF:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  A person with a disability | :  :  :  : | C.M. # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**CONSENT TO THE PETITION TO ESTABLISH A MILLER TRUST**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Name of interested party], whose relationship to the person with a disability is that of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (*e.g.* mother, brother), hereby consent to the petition to establish a Miller Trust without further notice.

I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.

Executed on the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (month) \_\_\_\_\_\_\_\_ (year).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Printed Name)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Signature)

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

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| Register in Chancery  Kent County  38 The Green, Ste. 208  Dover, DE 19901  302-735-1930 | Register in Chancery  New Castle County  500 N. King Street, Ste. 11600  Wilmington, DE 19801  302-255-0544 | | | Register in Chancery  Sussex County  34 The Circle  Georgetown, DE 19947  302-856-5775 | |
| IN THE MATTER OF:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  A person with a disability | | | :  :  :  : | C.M. # \_\_\_\_\_\_\_\_\_\_\_\_\_ | |

**NOTICE OF PETITION TO ESTABLISH A MILLER TRUST**

Dear Interested Party:

This is a notice that I am/we are petitioning to establish a Miller Trust for the person with a disability in order to qualify him/her for Medicaid benefits. If you object to the petition, you must immediately contact the Register in Chancery’s Office that has been marked above within thirteen (13) days of the date of this notice.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Petitioner’s Signature Co-Petitioner’s Signature

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

|  |  |  |
| --- | --- | --- |
| IN THE MATTER OF:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  A person with a disability | :  :  :  : | C.M. # \_\_\_\_\_\_\_\_\_\_\_\_\_ |

**CERTIFICATE OF MAILING**

The petitioner(s) mailed on this date, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ a copy of the

(1) Notice of Petition and (2) Petition to Establish a Miller Trust to the following interested parties via U.S. Mail:

|  |  |
| --- | --- |
| **Name** | **Address** |
|  |  |
|  |  |
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|  |  |
|  |  |

Guardian Co-Guardian (if applicable)

|  |  |
| --- | --- |
| I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.  Executed on the \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_ (month) \_\_\_\_\_ (year).  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (Guardian’s Printed Name)  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Guardian’s Signature) | I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.  Executed on the \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_ (month) \_\_\_\_\_ (year).  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (Co-Guardian’s Printed Name)  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Co-Guardian’s Signature) |

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

|  |  |  |
| --- | --- | --- |
| IN THE MATTER OF:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  A person with an alleged disability | :  :  :  : | C.M. # \_\_\_\_\_\_\_\_\_\_\_\_\_ |

**AFFIDAVIT OF EFFORTS TO LOCATE**

**ADDRESS OF INTERESTED PARTY**

I/We, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, petitioner(s) in the above matter, hereby confirm that I/We have been unable, after exercising reasonable diligence, to locate an address for interested party, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Name of interested party or missing person], in order to provide that interested party with notice of the filing of the guardianship petition and the hearing to be held in this matter.

My/Our last contact with \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Name of interested party or missing person] was on or around \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [month/year] and to the best of my/our knowledge, the last contact he/she had with the person with an alleged disability was on or around \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [month/year].

My/Our efforts have included the following [please check all that apply]:

performing an internet search for the address of the interested party;

asking other interested parties if they know of the missing person’s current whereabouts;

messaging the missing person through electronic means;

Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If I/We subsequently locate the missing interested party, I/We will notify the Court of his/her address.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Petitioner Co-Petitioner

STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ :

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ :

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_ by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Name of affiant].

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public/Chancery Court Clerk

*Pursuant to Court of Chancery Rule 178B, the use of an Unsworn Declaration (see below) is permitted rather than the notary requirement.*

Petitioner Co-Petitioner (if applicable)

|  |  |
| --- | --- |
| I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.  Executed on the \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_ (month) \_\_\_\_\_ (year).  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (Petitioner’s Printed Name)  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Petitioner’s Signature) | I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.  Executed on the \_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_ (month) \_\_\_\_\_ (year).  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (Co- Petitioner’s Printed Name)  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Co- Petitioner’s Signature) |