IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

Register in Chancery	Register in Chancery	Register in Chancery
Kent County	New Castle County	Sussex County
38 The Green, Ste. 208	500 N. King Street, 7th Floor	34 The Circle
Dover, DE 19901	Wilmington, DE 19801	Georgetown, DE 19947
302-735-1930	302-255-0544	302-856-5777

Procedures for filing a Petition to Establish an Irrevocable Income Trust ("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 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. When submitting your petition, it must be on regular 8.5 x 11 paper that can be easily scanned onto the computer and it must be one-sided.

- The petitioner is responsible for obtaining consents from the interested parties or sending notice of the petition to the interested parties by regular U.S. mail. Please see the instruction sheet within this packet for additional information.

- You may mail the completed petition to the Register in Chancery in the county where your guardianship case was established, and the completed order will be mailed back to you.

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

In the matter of:	:	
	:	
_____,	:	C.M. #: _____
A person with a disability	:	

Petition to Establish an Irrevocable Income Trust "(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 $_____.

4. Information about the monthly income received by the person with a disability:

   a. Social Security: $_____

   b. Pension: $_____

   c. Other: $_____

5. The income received by the person with a disability exceeds the income limit for Long-Term Care Medicaid. 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.

6. A copy of the proposed Irrevocable Income Trust Agreement, also known as

a Miller Trust, is attached as Exhibit "A".

7. 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**

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.

Signature section for guardian	Signature section for any co-guardian
I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct. Date: _____ Print name: _____ Signature: _____ Address: _____ _____ Phone Number: _____	I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct. Date: _____ Print name: _____ Signature: _____ Address: _____ _____ Phone Number: _____

Instructions for Notifying Interested Parties of Petition

It is the petitioner's responsibility to notify the interested parties when a petition is filed with the Court.

How to Notify the Interested Parties

Option 1 – Consent

Any interested party may sign a copy of the attached "Consent" form.

Option 2 – Send Notice

If any interested party does not sign the consent form, you must send them a copy of the attached "Notice of Petition". You may send the notice by regular U.S. Mail.

Any interested party who has not signed a consent must receive notice of your petition at least thirteen (13) days before the court will consider the 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.

Unknown Address of an Interested Party

If you do not know the address of an interested party, you must make reasonable efforts to locate it. If you are unable to locate the address, file an Affidavit of Efforts to Locate Address of Interested Party (Form CM6) with the court.

- File a separate affidavit for each interested party whose address is unknown.
- If a Form CM 6 has already been filed for an interested party, you do not need to file another one.
- If you later learn the interested party's address, promptly notify the court.

Form CM6 is available from the Register's Office or on the court's website.

Documents to File with the Court

You must file the following documents with the court before the petition will be reviewed by a Judicial Officer:

a. Any consent forms,
b. The attached "Certificate of Mailing" (if any notices were sent), and
c. Any affidavit(s) of efforts to locate address of interested party.

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

In the matter of:	:	
	:	
_____,	:	C.M. #: _____
A person with a disability	:	

Consent of Interested Party to Petition to Establish an Irrevocable Income Trust ("Miller Trust"

I, _____ [Name of interested party], whose relationship to the person with a disability is that of _____ (*e.g.* mother, brother), consent to the petition to establish an irrevocable income trust (also known as a Miller Trust).

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

Date: _____

Print Name: _____

Signature: _____

Address: _____

Phone Number: _____

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In the matter of:	:	
	:	
_____,	:	C.M. #: _____
A person with a disability	:	

Notice of Petition to Establish an Irrevocable Income Trust ("Miller Trust")

Dear Interested Parties:

This is a notice that I am/we are filing a petition to establish an Irrevocable Income Trust (also known as a Miller Trust) to qualify the person with a disability for the Delaware Medical Assistance Program ("Medicaid") Notice is being sent to you as an interested party.

If you object to the petition, you must immediately file a written objection with the Register in Chancery's Office that has been marked above. If you do not file a written objection within **thirteen (13) days** of the date of this notice, any objections will be deemed waived.

Petitioner's signature: _____

Co-Petitioner's signature: _____

Date: _____

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

In the matter of:	:	
	:	
_____,	:	C.M. #: _____
A person with a disability	:	

Certificate of Mailing to Petition to Establish and Irrevocable Income Trust ("Miller Trust")

The guardian(s) mailed the "Notice of Petition to Establish an Irrevocable Income Trust on _____ [date] to the following interested parties:

Name of Interested Parties	Address of Interested Parties

Signature section for guardian	Signature section for any co-guardian
I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct. Date: _____ Print name: _____ Signature: _____	I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct. Date: _____ Print name: _____ Signature: _____