

(2) THIS SECTION SHALL APPLY TO ANY COURT-APPROVED TRUST THAT IS FUNDED WITH ~~PROPERTY OWNED BY~~ INCOME OF THE BENEFICIARY AT THE TIME THE TRUST IS CREATED, BUT DOES NOT APPLY TO ANY TRUST THAT IS ESTABLISHED AND DIRECTLY FUNDED BY A DEFENDANT OR INSURANCE COMPANY IN SETTLEMENT OF AN ACTION OR CLAIM FOR PERSONAL INJURY BROUGHT BY OR ON BEHALF OF THE TRUST BENEFICIARY.

(D) EXCEPT AS OTHERWISE PERMITTED BY TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT, 42 U.S.C. § 1396P, AS AMENDED, A COURT MAY NOT AUTHORIZE, DIRECT, OR RATIFY THE TRANSFER OF ANY ~~PROPERTY OWNED BY~~ INCOME OF A PROTECTED INDIVIDUAL IF THE TRANSFER EITHER HAS THE EFFECT OF QUALIFYING OR PURPORTS TO QUALIFY THE PROTECTED INDIVIDUAL FOR MEDICAL ASSISTANCE FOR NURSING FACILITY CARE, UNLESS THE ~~PROPERTY~~ INCOME IS TRANSFERRED INTO A TRUST ESTABLISHED IN ACCORDANCE WITH § 15-109.1 OF THE HEALTH - GENERAL ARTICLE.

(E) THE PROVISIONS OF THIS SECTION DO NOT APPLY IF FEDERAL FUNDS ARE NOT AVAILABLE FOR INDIVIDUALS WHO WOULD QUALIFY FOR MEDICAL ASSISTANCE FOR NURSING FACILITY CARE AS A RESULT OF A COURT-APPROVED TRUST THAT MEETS THE CRITERIA SET FORTH IN § 15-109.1 OF THE HEALTH - GENERAL ARTICLE.

Article - Health - General

15-109.1.

(A) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(1) THE STATE MAKES SIGNIFICANT EXPENDITURES FOR NURSING HOME CARE UNDER THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

(2) A LARGE NUMBER OF INDIVIDUALS DO NOT HAVE ENOUGH INCOME TO AFFORD NURSING HOME CARE, BUT HAVE TOO MUCH INCOME TO QUALIFY FOR STATE MEDICAL ASSISTANCE, A SITUATION POPULARLY REFERRED TO AS THE "UTAH GAP";

(3) SOME INDIVIDUALS IN THE UTAH GAP, THROUGH INNOVATIVE COURT-APPROVED TRUST ARRANGEMENTS, HAVE BECOME QUALIFIED FOR STATE MEDICAL ASSISTANCE, THEREBY INCREASING STATE MEDICAL ASSISTANCE EXPENDITURES; AND

(4) IT IS THEREFORE APPROPRIATE TO ENACT STATE LAWS THAT LIMIT THESE COURT-APPROVED TRUSTS IN A MANNER THAT IS CONSISTENT WITH TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT, 42 U.S.C. § 1396 ET SEQ., AS AMENDED, AND THAT PROVIDE THAT INDIVIDUALS WHO QUALIFY FOR ASSISTANCE AS A RESULT OF A CREATION OF THESE TRUSTS SHALL BE TREATED THE SAME AS ANY OTHER RECIPIENT OF MEDICAL ASSISTANCE FOR NURSING FACILITY CARE.