

**Claudia M. Burton**  
Circuit Court Judge

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**CIRCUIT COURT OF OREGON  
THIRD JUDICIAL DISTRICT  
MARION COUNTY COURTHOUSE  
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## MARION COUNTY CIRCUIT COURT POLICY REGARDING INCOME CAP TRUSTS

On August 5, 2010, this court issued a policy statement regarding special needs trusts and income cap trusts. Since that time, the court has received and considered input from practitioners and state agency personnel regarding income cap trusts. The court is persuaded that the Medicaid rules governing income cap trusts justify different treatment of income cap trusts from special needs trusts.

Therefore, as a general policy, the Marion County Circuit Court will not require bond or accountings for income cap trusts. In conservatorships, when a protected person's assets have dropped to Medicaid eligibility levels and all income is being directed to an income cap trust, the court will also be prepared to close the conservatorship.

Individual judges, of course, retain the discretion on a case-by-case basis to depart from this general policy when, in their opinion, the circumstances of a particular case warrant a different treatment.

Special needs trusts, as opposed to income cap trusts, will continue to be treated as outlined in the memorandum dated August 5, 2012.