



Michael R. Pence, Governor
State of Indiana

Division of Family Resources
402 W. WASHINGTON STREET, ROOM W392
INDIANAPOLIS, IN 46204-2747

MEMORANDUM

TO: DFR Field Staff

FROM: Brandon Shirley, General Counsel

RE: Miller Trusts- Successor/Settler

DATE: July 9, 2015

Legal is not aware of any restrictions on who may establish the Miller Trust, so long as it meets the other requirements for a Miller trust. 42 USC 1396p(d)(4)(B) only requires that the trust be established "for the benefit of the individual" - it doesn't specify who must be the settler. That being said, the institution would have to have authority to establish the trust & sign as the settler (i.e. an AR or POA), or obtain the signature of the individual (or his AR/POA/guardian) on the trust document. The business itself would have to be listed on the AR or POA form that gives it the authority (not an individual administrator) in order for any administrator from the business to be able to sign the document. We rejected a Miller Trust recently because the AR form listed one specific administrator, and a different administrator signed the Miller Trust.

For the successor, if this is referring to the successor trustee listed on the document, this can be an institution.

