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TITLE 210 - EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

CHAPTER 50 - MEDICAID LONG-TERM SERVICES AND SUPPORTS (LTSS)

SUBCHAPTER 05 - INSTITUTIONALLY BASED LTSS

Part 2 - Uniform Accountability Procedures for Title XIX Resident Personal Needs Funds in Community Nursing Facilities, ICF/DD Facilities, and Assisted Living Residences

2.1 Introduction and Overview

Use of and accountability for funds of residents residing in community medical care, ICF/DD facilities and nursing facilities is an essential requirement for the protection of the residents' rights. In order to ensure proper program and fiscal accountability for these funds and to meet federal law and regulations, the following procedures must be in effect in all nursing facilities for whom EOHHS is responsible for payment through the Title XIX Medicaid Program.

2.2 Legal Basis

These rules are promulgated pursuant to the authority set forth in R.I. Gen. Laws Chapter 40-8 (Medical Assistance) and various sections in the R.I. Gen. Laws including §§ 40-8-32 and 23-17.5-15 related to rights of nursing facility residents; C.F.R. 42 § 483.10; and Title XIX of the Social Security Act. Additional authority is derived from the State's Medicaid State Plan and the Rhode Island Comprehensive Section 1115 Demonstration, as approved in final form on February 25, 2014, and as subsequently amended.

2.3 Definitions

A. "Applied income" means the amount of income a Medicaid beneficiary is required to contribute to the cost of his or her care.

B. "Assisted living residence" or "ALR" means a publicly or privately operated residence that provides directly or indirectly by means of contracts or arrangements personal assistance and may include the delivery of limited health services, as defined under R.I. Gen. Laws § 23-17.4-2(12), to meet the resident's changing needs and preferences, lodging, and meals to six (6) or more adults who are unrelated to the licensee or administrator, excluding however, any privately operated establishment or facility licensed pursuant to R.I. Gen. Laws 23-17 and those facilities licensed by or under the jurisdiction of the Department of Behavioral Healthcare, Development Disabilities and Hospitals, the Department of Children, Youth, and Families, or any other state agency.

C. "Cost of care" means the costs of providing care to a resident of a nursing facility, including nursing care, personal care, meals, transportation and any other costs, charges, and expenses incurred by a nursing facility in providing care to a resident. Costs of care shall not exceed the customary rate the nursing facility charges to a resident who pays for his or her care directly rather than through a governmental or other third-party payor.

D. “Executive Office of Health and Human Services" or "EOHHS” means the state agency established in 2006 under the provisions of R.I. Gen. Laws Chapter 42-7.2 within the executive branch of state government and serves as the principal agency for the purposes of managing the Departments of Children, Youth, and Families (DCYF); Health (DOH); Human Services (DHS); and Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH). The EOHHS is designated as the “single state agency,” authorized under Title XIX of the U.S. Social Security Act (42 U.S.C. § 1396a *et seq*.) and, as such, is legally responsible for the program / fiscal management and administration of the Medicaid Program.

E. “Intermediate Care Facility for Persons with Intellectual/Developmental Disabilities" or "ICF/IDD” means a State-licensed health care facility that provides long-term care and services to persons with intellectual /developmental disabilities.

F. "Nursing facility" means a nursing facility licensed under R.I. Gen. Laws Chapter 23-17, which is a participating provider in the Rhode Island Medicaid Program.

2.4 Personal Needs Funds - Requirements

A. The Department of Health, will review, certify and re-certify that the facility has adopted the written policies and procedures included herein pertaining to the resident accounts, and verify that such policies and procedures are being followed.

B. The EOHHS will interview residents and review resident records to determine whether they:

1. Have access to their personal funds held by the facility.

2. Know the current status of their accounts.

3. Receive in writing, and have explained if necessary, at least quarterly accountings of transactions made on their behalf.

4. Can ensure that their resources, including personal needs funds, are within the limits for continued eligibility.

5. Review resident’s records to verify a quarterly accounting of deposits, withdrawals and balances has been completed.

C. In cases in which a member of the resident's family or a guardian assumes responsibility for personal needs funds due to an inability of the resident to manage such funds, the above points will be addressed to such persons rather than the resident, as appropriate.

D. EOHHS, or its designee, will audit residents' personal needs accounts held by the facility to ensure accountability within the procedures and requirements specified herein.

E. Resident personal needs allowances are for the sole use of the resident for such items that include, but are not limited to, haircuts, beauty parlor, tobacco, clothing, cellular telephone service and preference brand items. Personal needs allowances may be used for the payment of reserve bed days but may not be used for the payment of applied income balances or items covered as routine services. Personal needs allowances may not be used for items which the facility is reimbursed through the Medicaid Program.

F. Each facility shall obtain, upon admission from the resident, guardian, next of kin or person responsible for the resident, a signed and witnessed document ("Personal Needs Fund Authorization Document") indicating the wishes of the resident as to the manner in which personal funds are to be handled. For residents who cannot sign the authorization document, the "Personal Needs Fund Authorization Document", it is required that two (2) appropriate employees sign the document and attach a statement to that effect. (A recommended copy is available for downloading on the EOHHS website http://www.eohhs.ri.gov/Portals/0/Uploads/Documents/Rules/Personalneedsauthordocumentjan2018.pdf). An authorization document must be on file for all residents who have funds in the personal needs fund, including non-Medicaid residents. The recommended copy clearly provides the following choices:

1. Resident as responsible party.

2. Guardian, next of kin, or other individual as responsible party.

3. Facility as responsible party.

4. In addition to § 2.4(E) of this Part, periodically, monies are left by the responsible party above for incidentals to be administered by the facility in accordance with these regulations. The amount on hand cannot exceed one month's personal needs allowance. If the funds exceed this amount, a new authorization document must be established for the resident.

G. If the signed statement indicates the resident's choice is for the facility to handle the personal needs funds, the following requirements must be met:

1. The responsibility for handling the resident personal needs funds should be limited to specific individuals who are accountable for such funds. Each facility must maintain a surety bond for the personal needs funds in

accordance with C.F.R. 42 § 483.10(f)(10)(vi). The obligee of the surety bond must be the State of Rhode Island. The amount of the surety bond must be greater than all personal funds of the residents at the facility.

2. Each resident must be given a written accounting of his/her deposits withdrawals and balances at least quarterly. The facility must keep a copy of such itemized accounting with the resident's records.

3. Resident personal needs funds must not be commingled with general funds of the facility or with any other funds.

4. When the individuals balance exceeds seventy-five dollars ($~~50~~75.00), the excess shall be deposited into an interest-bearing checking account in the name of the facility followed by the words "Resident Personal Needs Funds", an interest-bearing savings account in the name of the facility followed by the words "Resident Personal Needs" or into a savings account in the name of the resident and his/her designee. The resident savings accounts must remain in the custody of the facility. Interest earned in the checking or savings account must be pro-rated to each resident having a balance in the account.

5. Individual resident ledger cards showing name, deposit, withdrawals and balance for checking, savings and petty cash accounts must be established and maintained by the facility. It is noted that if a facility utilizes and maintains an Imprest petty cash fund, petty cash does not have to be listed on the ledger card.

6. A separate petty cash fund entitled "Petty Cash – Residents Personal Needs" showing original balance, withdrawals supported by signed receipts, deposits in the petty cash fund from the checking account entitled "Resident Personal Needs", and balance on hand. Resident personal needs funds petty cash must not be co-mingled with the operating accounts petty cash fund, or any other petty cash funds and the operating accounts petty cash fund must not be utilized for resident personal needs funds.

7. The amount of petty cash – resident personal needs account must not exceed the amount of seventy-five dollars ($~~50~~75.00) (or any subsequent increase to the personal needs allowance) for each resident choosing the facility to handle their funds.

8. Each withdrawal from the resident personal needs accounts (petty cash, checking or savings) shall be documented by a two-part signed and witnessed receipt showing date in full, name of resident, amount of withdrawal and purpose. The original is to be kept by the facility and the copy given to the resident. For residents who cannot sign, two (2) signatures of appropriate employees would be required. For withdrawals

for such items such as hairdresser, bus trips, a master list would be an acceptable receipt if signed by the vendor and the representative from the facility who pays the invoice.

9. The resident personal needs ledgers, when totaled, will agree to the balance of the "Resident Personal Needs" checking account, individual savings account if applicable, plus the amount represented in the resident personal needs – petty cash account. Residents are not allowed to carry negative balances in their accounts. This reconciliation must be done on a monthly basis and retained for verification at time of audit.

10. The nursing facility must notify the resident in writing when his/her balance reaches $200.00 less than the resource eligibility guideline, that Medicaid eligibility is jeopardized if the account exceeds the guideline.

11. If the statement indicates the resident, guardian, next-of-kin, or other person responsible for the resident is to handle the personal needs funds, the facility shall have on file a receipt signed by the resident or other responsible person to ensure that each month's personal needs check or funds were actually received by the resident or other responsible person. Such receipt must show the amount of the check or the amount of money received by the resident or other responsible person. This requirement will apply only in those instances in which checks for personal income including SSI are mailed directly to the facility. A bank processed cancelled check is acceptable as evidence of receipt.

H. Disposition of resident personal needs funds upon:

1. Discharge,

2. Transfer to another long-term care facility, or

3. Death:

a. Upon discharge to community living, the resident shall be given his/her savings passbook and the funds so accumulated to his/her ledger from the resident personal needs checking account, and shall sign a receipt for such savings passbook and balance of personal needs funds.

b. Upon transfer to another long-term care facility, the resident's savings passbook and balance of resident's personal needs funds shall be transmitted to the administrator of the new facility within ten days of such transfer. The administrator of the new facility shall furnish a signed receipt for said savings passbook and balance of personal needs fund to the administrator of facility from which said resident was transferred.

c. Upon the death of a Medicaid resident, a facility shall, within ten days, transmit a notarized statement, namely, the "Notarized Statement Related to Amount of Personal Needs Money Available Upon a Resident's Death" (See form available for downloading on the EOHHS website http://www.eohhs.ri.gov/Portals/0/Uploads/Documents/Rules/Personalneedsauthordocumentjan2018.pdf) indicating the amount of personal needs money on hand after funeral expenses. Funeral expenses are designated to be the first paid. Copies of receipts, obtained either from the funeral home or the relative responsible for the funeral should be included.

d. If the deceased recipient is survived by a spouse, a child under twenty-one, or a child that is blind or permanently disabled in accordance with Title XVIII of the Social Security Act, the balance of the personal needs funds on hand, after payment of funeral expenses, may be transmitted to those individuals.

e. If there is a balance in the Medicaid resident's personal needs account, after payment of the above noted disbursements, a check payable to EOHHS in that amount shall be sent along with the copy of the notarized statement and receipts to EOHHS at the address listed on the form.

f. If there is a $0.00 balance, the "Notarized Statement Related to Amount of Personal Needs Money Available Upon a Resident's Death" form must be filled out and sent in. Resident personal needs funds cannot be utilized for the payment of applied income balances.

2.5 Assisted Living Residences

Assisted living residences that maintain personal needs funds for their residences shall sustain compliance with the provisions of R.I. Gen. Laws §§ 23-17.4-16 (a)(2)(xiii)(A), (B), (C), and (D) and the applicable rules promulgated under R.I. Gen. Laws Chapter 23-17.4 by the Rhode Island Department of Health.