

RESIDENT TRUST FUND / PERSONAL FUNDS IN LONG TERM CARE FACILITIES

- **THE MANAGEMENT OF RESIDENT TRUST FUNDS, PERSONAL FUNDS AND REPORTING OF VIOLATIONS ARE GOVERNED BY:**
- **FEDERAL REGULATIONS 483.10(c)(1) – (8); STATE REGULATIONS 306-306.6.5; and ARKANSAS STATE LAWS, ARKANSAS CODES ANN. 12-12-1701, 20-10-210 and 5-36-103.**

PROTECTION OF RESIDENT FUNDS

483.10(c)(1)-(8)

PROTECTION OF RESIDENT FUNDS (c)(1) F158

The resident has the right to manage his or her financial affairs, and the facility may not require residents to deposit their personal funds with the facility.

MANAGEMENT OF PERSONAL FUNDS (c)(2) F159

Upon written authorization of a resident, the facility must hold, safeguard, manage, and account for the personal funds of the resident deposited with the facility, as specified in paragraphs (c)(3)-(8)

INVESTIGATION GUIDE

Look at each ledger sheet/account and review the following:

Written authorization was obtained for the facility to manage resident's funds. (F159)

Individual account funds with a balance greater than \$50 (Medicaid) and \$100 (Medicare) ***must be placed in an interest-bearing account.*** The ledger sheet should reflect the interest accrued to each account no later than at the end-of-quarter balance.

NOTE: This applies to “Pooled” trust funds also. (F159)

INVESTIGATION GUIDE CONT'D.

The facility can provide evidence that, upon request of resident/representative, less than \$50 (Medicaid) and less than \$100 (Medicare) is available on the same day. Amounts greater than \$50 (Medicaid) and \$100 (Medicare) must be made available within 3 banking days of the request. Residents should have access to petty cash on an ongoing basis.

Investigated if OLTC receives complaints about not receiving money on request (F159).

Residents' funds are not co-mingled with facility funds or another person's (other than another resident's, "pooled," accounts (F159).

An individual financial record (ledger sheet) is available through quarterly statements and upon request of the resident/legal representative. (F159).

INVESTIGATION GUIDE CONT'D.

PROPER BOOKKEEPING/ACCOUNTING PRINCIPLES

Proper bookkeeping (accounting principles) are used in the maintenance of the written or computerized individual ledger accounts: (F159).

- (a) Each resident has their own individual ledger sheet.
- (b) Ledger sheets document only those transactions that involve the individual resident's personal funds.
- (c) Ledger sheets document ongoing balances (new balances are documented with each transaction).
- (d) The facility provides the resident/representative with a receipt for all transactions and retains a copy.

INVESTIGATION GUIDE CONT'D.

PROPER BOOKKEEPING/ACCOUNTING PRINCIPLES

Proper bookkeeping (accounting principles) are used in the maintenance of the written or computerized individual ledger accounts: (F159). Cont'd.

(e) Monies that are due to the resident are credited to the respective bank accounts within a few business days (i.e., money owed to resident from Medicaid/VA checks).

(f) The facility has evidence that quarterly statements in writing to the resident/representative within 30 days after the end of each quarter.

(g) A facility must not charge a resident/representative for items/services that are not requested by the resident.

INVESTIGATION GUIDE CONT'D.

NOTICES: F-159.

- (a) The facility provides notice to the resident/representative when an account balance reaches \$200 less than the SSI resource limit (which is determined by the Social Security District Office).
- (b) When the notice is given, it must include information that if the amount in the account plus the value of the resident's non-exempt resources reaches SSI limit for one person, the resident may lose their eligibility for Medicaid/SSI.

NOTE: If the ledger balance is within the limit, ask the resident/representative if they have received a notice?

INVESTIGATION GUIDE CONT'D. RESIDENTS WHO HAVE DIED

REVIEW CLOSED RECORDS OF RESIDENTS WHO HAVE DIED.

Is there evidence the facility conveyed the resident's funds within 30 days of the resident's death and provided a final accounting to the individual/probate jurisdiction for the resident's estate?

INVESTIGATION GUIDE CONT'D.

SURETY BOND

SURETY BOND:

- (a) Obtain the total amount of all resident's trust fund account balances.
- (b) Facility must have purchased a bond that is at least equal to the total amount, as of the most recent quarter.
(F161)

INVESTIGATION GUIDE CONT'D.

REVIEW OF CHARGES

Review all charges to the individuals' trust fund accounts.

Make sure there are no charges against personal funds for any item/service for which Medicaid/Medicare pays.
(F162)

TERMS USED

INTERPRETIVE GUIDELINES

483.10(c)(1)-(8)

POOLED ACCOUNTS: If pooled accounts are used, interest must be prorated per individual on the basis of actual earnings or end-of-quarter balance.

INTEREST BEARING: Means a rate of return equal to or above the passbook savings rate at local banking institutions in the area.

SAME DAY: Means that request for less than \$50 (\$100 Medicare) should be honored the same day. Request above those amounts available within “3-Banking Days.”

TERMS USED CONT'D.

“HOLD,SAFEGARD,MANAGE AND ACCOUNT FOR”:

Means that the *facility* must *act as a fiduciary* of the *resident's funds* and *report* at least *quarterly* on the status of these funds in a clear and understandable manner.

This includes money that an individual gives the facility to be used for (non-covered) service for the resident. In these cases, *the facility will provide a receipt to the gift giver and retain a copy.*

TERMS USED CONT'D.

ORAL REQUEST: A resident may make an oral request that the facility temporarily place their funds in a safe place, without authorizing the facility to manage those funds.

Oral request come under the provisions of personal property and misappropriation of property. The following provisions must be met:

There must be a written declaration by the resident that the funds are being held for no more than a few days by the facility at the resident's request;

These funds are not held for more than a few days; and

The facility provides the resident a receipt for these funds and retains a copy for its records.

TERMS USED CONT'D.

BANK FEES: Banks may charge the resident a fee for handling their funds.

Facilities **MAY NOT** charge residents for managing residents' funds because the services are covered by Medicare or Medicaid.

GENERALLY ACCEPTED ACCOUNTING PRINCIPLES: Means that the facility employs proper bookkeeping techniques, by which it can determine, upon request, the amount of individual resident funds and, in the case of an interest bearing account, how much interest these funds have earned for each resident, as last reported by the banking institution to the facility.

TERMS USED CONT'D.

PROPER BOOKKEEPING TECHNIQUES: This would include an individual ledger card, ledger sheet or equivalent established for each resident on which only those transactions involving his or her personal funds are recorded and maintained.

The record should have information on when transactions occurred, what they were, as well as maintain the ongoing balance for every resident.

TERMS USED CONT'D.

SURETY BOND: Unlike other types of insurance, the **Surety Bond** protects the obligee (the resident or the state) not the principal (the facility), from loss.

The facility cannot be named as a beneficiary.

Self-insurance is not an acceptable alternative to a surety bond.

THEFT/MISUSE OF RESIDENT TRUST FUND

REPORTABLE TO OLTC-YES!

ARK CODE 12-12-1703(6)(A)(B)

- (A) Illegal or unauthorized use or management of an endangered person's or an impaired person's funds, assets, or property;
- (B) Use of an adult endangered person's or an adult impaired person's power of attorney or guardianship for the profit or advantage of one's own self or another.

THEFT/MISUSE CONT'D.

REPORT BY 11:00 A.M. NEXT BUSINESS DAY, DMS-7734:

Any allegation, suspicion or proof of the misuse or theft of resident trust funds must be reported to OLTC.

There must be a DMS-7734 filled out on each resident's trust fund account that is involved. The DMS-762 must also be completed after five (5) business days.

The Local Law Enforcement Authority must be called!

THEFT/MISUSE CONT'D.

YES-IT IS A CRIMINAL ACT

ARK CODE ANN. 5-36-103: THEFT OF PROPERTY:

Class C Felony: If \$500.00 or more.

Class B Felony: If \$2,500.00 more.

Cumulative provision, if you took \$70.00 from ten (10) residents, then it's \$700.00, Class C Felony.

THEFT/MISUSE CONT'D.

WHAT CAN FACILITY/CORPORATION DO?

The Facility/Corporation can take their information to the Prosecutor's Office and request that he/she prosecute.

The Prosecutor should write an affidavit or have the corporation write an affidavit containing the fact of the offense and then a warrant can be issued.

PROTECTION OF RESIDENTS' PERSONAL FUNDS

ARK. CODE. ANN. 20-10-210(a)(b)

20-10-110(a)(4) “**Resident**” means a person: (A) Who resides on a permanent and full-time basis in a long-term care facility; (B) Who is a Medicaid Recipient; and (C) Who’s facility care is paid, in whole or in part, by Medicaid.

PROTECTION OF FUNDS CONT'D.

ARK. CODE. ANN. 20-10-110(b)(1)(2):

(b) (1) No long-term care facility may require a third-party guarantee of payment to the facility as a condition of admission, expedited admission, or continued stay in the facility.

(b) (2) However, a long-term care facility may require an agent who has legal access to a resident's income or resources available to pay for facility care to sign a contract without incurring personal financial liability to provide facility payment from the resident's income or resources.