



**TABLE OF CONTENTS**

PERSONAL NEEDS ALLOWANCE	1
RESIDENT TRUST FUND	3

## **PROTECTION OF RESIDENTS' FUNDS**

In accordance with CFR 483.10(f)(10), a nursing home resident has the right to manage their financial affairs. This includes the right to know, in advance, what charges a facility may impose against a resident's personal funds. Additionally, the facility shall not require residents to deposit their personal funds with the facility.

While this supplement highlights information regarding the personal needs allowance and residents trust fund, providers are also required to be familiar with and adhere to all federal and state requirements, including federal requirements in 42 CFR § 483.10 Resident Rights.

### **PERSONAL NEEDS ALLOWANCE**

The personal needs allowance (PNA) is the amount of income a Medicaid recipient residing in long-term care facility such as a nursing home or Intermediate Care Facility, may keep to use towards personal items and services, which are not covered by Medicaid. The PNA cannot be applied towards the recipient's cost of medical assistance furnished by the facility. The federal requirement for a personal needs allowance was authorized by the Supplemental Security Act Amendments of 1972. Each state sets their own personal needs allowance amount, as long as it meets the federal minimum PNA of \$30 per month established by the 1987 Omnibus Budget Reconciliation Act of 1987.

In Virginia, every Medicaid recipient residing in a nursing home is entitled to a personal care allowance of \$40 per month. An exception applies to certain veterans and surviving spouses. These individuals are allowed to retain \$90 each month.

An additional exception occurs when Medicaid recipients in a long-term care facility are regularly involved in vocational activity as part of a planned habilitation program carried out in a therapeutic work program, such as a sheltered workshop, prevocational training, or vocational training. These individuals are allowed to retain \$75 of earnings each month and 50 percent of any additional earnings up to a maximum of \$190 per month.

### **Limitations on Charges to Personal Funds**

#### **I. Services Included in Medicare or Medicaid Payment**

During a covered stay, facilities may not charge a resident for the following categories of items and services:

- Nursing services as required by 42 CFR § 483.35
- Food and Nutrition services as required by 42 CFR § 483.60

- 
- Activities program as required by 42 CFR § 483.24(c)
  - Medically-related social services as required by 42 CFR § 483.40(d)
  - Room and bed maintenance services
  - Hospice services elected by the resident and paid for under the Medicare Hospice Benefit or paid for by Medicaid under the state plan
  - Basic personal hygiene items and services as required to meet the needs of residents including, but not limited to, shampoo, comb, bath soap, razor, shaving cream, toothbrush, toothpaste, dental floss, denture adhesive and cleaner, moisturizing lotion, tissues, deodorant, incontinence care and supplies, towels, over-the-counter drugs, nail hygiene services, and basic personal laundry.
    - Nursing homes must provide products that are sufficient to meet the needs of residents (e.g., allergies that require additional brands of soap, specialized cleansing agents when indicated to treat special skin problems).
    - If a resident prefers and requests a specific brand that is not provided by the nursing home, a nursing home may charge the resident the difference between the cost of the brand requested and the brand generally provided.

## II. Allowable Charges to Residents' Personal Funds

The facility may charge the resident for requested services that are more expensive than or in excess of covered services in accordance with 42 CFR § 489.32.

In accordance with 42 CFR § 483.10, listed below are examples of items and services that the nursing home may charge to residents' funds **if they are requested** in writing by a resident, if they are not required to achieve the goals stated in the resident's care plan, if the facility informs the resident that there will be a charge, and if payment is not made by Medicare or Medicaid:

- Telephone
- Television/radio, personal computer or other electronic device for personal use
- Personal comfort items, including smoking materials, notions and novelties, and confections
- Cosmetic and grooming supplies and services in excess of those for which payment is made under Medicaid or Medicare
- Clothing
- Books and magazines

- 
- Small gifts purchased on behalf of the resident
  - Flowers and plants
  - Cost to participate in social events and entertainment offered outside the scope of the activities program provided under 42 CFR § 483.24(c)
  - Non-covered special care services such as privately-hired nurses or aides
  - Private room, except when therapeutically required (for example, isolation for infection control)
  - Specialty food requested that is outside the scope of services required by 42 CFR § 483.60
    - The facility may not charge for special foods and meals, including medically-prescribed dietary supplements, ordered by the resident's physician, physician assistant, nurse practitioner, or clinical nurse specialist, as these are included in accordance with 42 CFR [§ 483.60](#).
    - In accordance with 42 CFR [§ 483.60\(c\)](#) through [\(f\)](#), when preparing foods and meals, a facility must take into consideration residents' needs and preferences and the overall cultural and religious make-up of the facility's population.

### **III. Requests for Items and Services**

- A. The facility can only charge a resident for any non-covered item or service if such item or service is specifically requested by the resident.
- B. The facility must not require a resident to request any item or service as a condition of admission or continued stay.
- C. The facility must inform, orally and in writing, the resident requesting an item or service for which a charge will be made that there will be a charge for the item or service and what the charge will be.

### **RESIDENT TRUST FUND**

A Resident Trust Fund is an account managed by the nursing home for the convenience of the residents for depositing their personal funds. While nursing homes are required to offer resident trust funds, they cannot require residents to use these accounts. If a resident chooses to deposit their personal funds with the facility, the resident must provide written authorization.

The nursing home must act as a fiduciary of the resident's funds and hold, safeguard, manage, and account for the personal funds of the resident deposited with the facility, as

specified below and in accordance with 42 CFR § 483.10. The facility must purchase a surety bond to assure the security of all personal funds of residents deposited with the facility.

The system must preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident. The facility must establish and maintain a system that assures a full and complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the facility on the resident's behalf.

A control account for residents must be established. Total receipts and disbursements for all resident funds should be posted to this account. The balance in this account, as well as the balance of the offsetting liability account, must be shown on the provider's financial statements.

### **Resident Access to Funds**

The resident maintains ownership of their funds in the trust and have the right to access them at any time. The resident must have access to funds daily, at least two (2) hours during normal business hours, and for some reasonable time on Saturdays and Sundays.

### **Deposit of Funds**

The nursing home must deposit any resident's personal funds in excess of \$50 in an interest-bearing account (or accounts) that is separate from any of the facility's operating accounts, and that credits all interest earned to the resident. (In pooled accounts, there must be a separate accounting for each resident's share.) Records must indicate that the nursing home does not have an ownership interest in the funds. The nursing home must have a written policy stating how interest earned on any pooled interest-bearing account is prorated to each resident whose funds are in the account. Resident account balances must be reconciled monthly, and interest must be prorated monthly.

The facility must maintain a resident's personal funds that do not exceed \$50 in an interest-bearing account, a non-interest-bearing account or a petty cash fund.

### **Notice of Certain Balances**

The nursing home must notify each resident who receives Medicaid benefits when the amount in the resident's account(s) reaches \$200 less than the SSI resource limit for one person. The facility must also inform the resident that if the amount in the account in addition to the value of the resident's other non-exempt resources reaches the SSI resource limit for one person, the resident may lose eligibility for Medicaid or SSI.

**Notice of Rights and Services**

In accordance with 42 CFR § 483.10 (g)(4)(i), the facility must furnish to each resident a written description of legal rights which includes, among other requirements, a description of the manner of protecting personal funds, under 42 CFR § 483.10 (f)(10).

**Record Keeping**

The nursing home must keep records which include at least the following:

- A. A ledger card for each resident's Resident Trust Fund account which includes:
  1. Resident's name
  2. Identification of the resident's representative
  3. The date the account was established, and if applicable, discharge date; the Resident Fund Account closing date; and final disposition of account balance
  4. The date and amount of all deposits, withdrawals, interest earned, and the current balance
- B. The nursing home should keep pre-numbered voucher slips indicating:
  1. Item(s) purchased
  2. Signature of resident or his / her legal representative. In the event the resident or his / her representative is unable to sign, the nursing home must obtain two witness signatures, such as the facility Administrator, Director of Nurses, Social Services Director, or family member being reimbursed for the purchases.

On a monthly basis, the individual patient ledger cards are to be balanced to the control account which is in turn reconciled to the custodian bank account.

**Reporting on Resident Trust Fund to Residents**

The individual financial record must be available to the resident through quarterly statements and upon request and must include the following:

1. Balance at the beginning of the period
2. Total deposits and withdrawals
3. Interest earned
4. Balance at the end of the period
5. Identification number and location of personal fund accounts

**Audits and Reviews**

A periodic examination of the nursing home's handling of resident funds will be conducted by auditors from DMAS.

The Office of Licensure and Certification of the Virginia Department of Health will review each nursing home's system as a condition of participation in Medicaid program.

**Change in Ownership**

The nursing home must provide a new owner with a written accounting of all resident funds being transferred and obtain a written receipt for those funds.

The nursing home must give each resident a written accounting of any personal funds held by the nursing home before any transfer of ownership occurs.

**Resident Discharge/Death**

Upon the discharge, eviction, or death of a resident with a personal fund deposited with the facility, the facility must convey within 30 days the resident's funds, and a final accounting of those funds, to the resident, or in the case of death, the individual or probate jurisdiction administering the resident's estate, in accordance with State law. If a small estate affidavit is obtained, the facility must convey resident's funds and a final accounting of those funds within 120 days.

**Death of Resident**

The nursing home must provide the executor or administrator of a resident's estate with a written accounting of the resident's personal funds within 10 business days of a resident's death.

If no such executor or administrator exists, refunds from accounts of deceased residents should be made in the following order:

- a. To the establishment that conducts the funeral arrangements for burial expenses (if still unpaid at the time of refund)
- b. To the designated responsible party or family member
- c. Any remaining balance will be reported to the circuit court in the city or county in which the resident resided. Code of Virginia § 64.2-601
- d. Division of Unclaimed Property at the following address: Commonwealth of Virginia, Department of the Treasury Division of Unclaimed Property, P.O. Box

2485, Richmond, Virginia 23218

The facility should notify the Department of Social Services (DSS) any time the resident's personal funds exceed the Medicaid resource level.

If a resident account exceeds the Medicaid resource level, then in addition to the above steps, the nursing home must provide DMAS with a written notice of the full amount of funds in the resident's trust fund account on the date of death. This notice is to be provided within 10 days after the date of the resident's death to:

Third Party Liability Manager, Fiscal Division  
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300  
Richmond, Virginia 23219