

WYOMING MEDICAID RULES

CHAPTER 17

NURSING FACILITY RESIDENT TRUST ACCOUNTS

Section 1. Authority. This rule is promulgated by the Department of Health pursuant to the Medical Assistance and Services Act at W.S. § 42-4-101, *et seq.*, and the Wyoming Administrative Procedure Act at W.S. § 16-3-101, *et seq.*

Section 2. Purpose and Applicability.

(a) This Chapter has been adopted to establish the standards and procedures for all resident trust accounts maintained by nursing facilities.

(b) The Department may issue manuals, bulletins, or both to interpret the provisions of this Chapter. Such manuals and bulletins shall be consistent with and reflect the policies contained in this Chapter. The provisions contained in manuals or bulletins shall be subordinate to the provisions of this Chapter.

(c) The incorporation by reference of any external standard is intended to be the incorporation of that standard as it is in effect on the effective date of this Chapter.

Section 3. Definitions. Except as otherwise specified in the Rules and Regulations of Wyoming Medicaid, Chapter 1, Definitions, the terminology used in this Chapter is the standard terminology and has the standard meaning used in healthcare, Medicaid, and Medicare.

Section 4. Notice to Residents. Notice of covered services. At the time of admission, the nursing facility shall provide the resident and the resident's representative with a written notice that contains the information specified in subsections (a) through (g). Such notice shall also be given at least once every year after admission, and within sixty (60) days after there is any change in the services available to residents, the charges for such services or the services included in the Medicaid reimbursement rate. The notice shall contain:

(a) An itemized statement of the services provided by the nursing facility as part of the nursing facility's Medicaid reimbursement rate;

(b) An itemized statement of the services provided by the nursing facility that are not covered by the nursing facility's Medicaid reimbursement rate or Medicare and that may be charged to the resident, including the charge for each such service;

(c) A statement that the client is not required to deposit personal funds in a resident trust account.

(i) Personal funds account. For purposes of this Chapter, personal funds are all funds which belong to a resident, from whatever source, including the resident's personal care allowance.

(ii) Resident trust account. For purposes of this Chapter, the resident trust account is an account maintained by a facility in which a facility resident's personal funds are deposited and held in trust by the facility for the use and benefit of the resident.

(d) A description of the resident's right to select one (1) of the following alternatives for the management of personal funds:

(i) The resident may receive, retain and manage personal funds directly or through a legal guardian;

(ii) The resident may apply to the Social Security Administration for the designation of a representative payee to receive and manage personal funds; or

(iii) The resident may designate, in writing, another person to receive and manage personal funds.

(e) A statement that any charge for the nursing facility managing the resident's trust account is included in the Medicaid reimbursement rate;

(f) A statement that the resident is entitled to one (1) accounting per calendar month of the resident's trust account upon the written request of the resident, the resident's legal guardian, the resident's representative payee or such other person as has been designated to manage the resident's trust account;

(g) A statement that if the resident is or becomes incapable of managing personal funds and has not designated another person to do so, the nursing facility shall arrange for the management of the resident's personal funds pursuant to the provisions of this Chapter; and

(h) Notice of potential ineligibility for Medicaid or SSI. In addition to the notice described above, the nursing facility shall notify a client when the balance of the resident's trust account is within two hundred dollars (\$200.00) of the amount determined under 42 U.S.C 1382(a)(3)(B). The notice shall be in writing and shall inform the client that if the amount in the account plus the client's other nonexempt resources reaches the amount determined under 42 U.S.C. 1382(a)(3)(B), the client may lose eligibility for Medicaid, SSI or both.

Section 5. Charges to Residents.

(a) No charges for services included in per diem rate or covered by Medicare.

A nursing facility may charge a resident only for services which are not included in the nursing facility's per diem rate for that resident and which are not covered by Medicare.

(b) Charges to personal care allowance. A nursing facility may seek reimbursement from a resident's personal care allowance only for services directly related to the resident's personal needs, including, but not limited to:

- (i) Commissary items, such as books, magazines and candy; or
- (ii) Premiums on life insurance policies or burial expense policies.

Section 6. Nursing Facility's Fiduciary Responsibilities.

(a) Upon written authorization from the resident, or any individual designated pursuant to Section 4 of this Chapter, the nursing facility shall accept responsibility for:

- (i) Receiving personal funds;
- (ii) Depositing personal funds in the resident's trust account;
- (iii) Safeguarding the resident's personal funds; and
- (iv) Managing the resident's trust account, including accounting for all personal funds received by the nursing facility.

(b) Management. The nursing facility may perform the duties specified in this Chapter directly or through a bank, which is a federally or state chartered bank, savings and loan or credit union which is insured by an agency of the United States Government. The delegation of such duties to a bank shall not affect the nursing facility's ultimate responsibility for ensuring that the requirements of this Chapter are met.

(c) Interest. The nursing facility may deposit personal funds in a non-interest bearing account if such funds do not exceed fifty dollars (\$50.00). Funds in excess of fifty dollars (\$50.00) shall be transferred to an interest bearing account within fifteen (15) days after the date a client's trust account exceeds fifty dollars (\$50.00). All such interest shall accrue to the resident's trust account.

(d) Pooled funds. Resident trust accounts may be pooled. If the nursing facility uses a pooled account, it must:

- (i) Maintain records adequate to clearly disclose the amount of each resident's trust account and each transaction involving such account;
- (ii) Indicate on the account that the nursing facility does not have an ownership interest in the funds; and

(iii) Establish a written policy for the attribution of accrued interest among the pooled accounts. Interest may be prorated by:

- (A) End of quarter balance;
- (B) End of month balance;
- (C) Daily balance; or
- (D) Average daily balance.

(e) Record keeping requirements. The nursing facility shall maintain current, written records of each transaction involving each resident's trust account for which the nursing facility is responsible. The records shall include:

- (i) The resident's name;
- (ii) The name of the resident's representative;
- (iii) The date of the resident's admission;
- (iv) The date and amount of each deposit and withdrawal, the name of the person who accepted the withdrawn funds, the purpose for which funds were withdrawn, and the balance after each transaction;
- (v) Receipts indicating the expenditure of the funds;
- (vi) All accrued interest; and
- (vii) If applicable, the date of discharge, the date the resident's trust account was closed and final disposition of the resident's trust account.

(f) Resident unable to manage funds. When a resident is not capable of managing personal funds for any reason, the nursing facility shall, in addition to the record-keeping required by subsection (e), maintain prenumbered voucher slips which:

- (i) Indicate the item(s) purchased with the resident's personal funds; and
- (ii) Contain two (2) signatures for each withdrawal, one (1) of which shall be that of a supervisory employee of the nursing facility. If the withdrawal is to reimburse another person for the expenditure of funds on behalf of the resident, that person's signature shall appear on the voucher.

(g) Quarterly reports. Within thirty (30) days after the end of each calendar

quarter, the nursing facility shall issue a written accounting to each resident or resident representative for whom the facility maintains a resident trust account. The written accounting shall include:

- (i) The balance at the beginning of the quarter;
- (ii) Total deposits and withdrawals;
- (iii) Interest earned;
- (iv) The balance at the end of the quarter; and
- (v) The location of the resident's trust account and the account's identification number.

(h) Access to resident trust accounts. The nursing facility shall provide access to resident trust accounts:

- (i) For at least two (2) hours during normal business hours each working day; and
- (ii) For a reasonable time on Saturdays and Sundays.

(i) Commingling of resident trust accounts. The nursing facility shall not commingle resident trust accounts with any of the nursing facility's funds. Each resident trust account shall state that the nursing facility has no ownership rights in the account and that the funds are held in trust.

(j) Return of personal funds. The nursing facility shall, upon written request by a resident or the person designated pursuant to subsection 4(d) of this Chapter:

- (i) Return the balance of the resident's trust account to the requesting party within five (5) days after receipt of such request; and
- (ii) Provide a written accounting, including all transactions from the date of the last quarterly report.

(k) Death of resident. Upon the death of a resident for whom the nursing facility is maintaining a resident trust account, the nursing facility shall:

- (i) Provide the personal representative of the estate of the resident, or any other person entitled to distribution pursuant to W.S. § 2-4-101, *et seq.*, with a full, written accounting of the resident's trust account within thirty (30) days after the date of the resident's death; or

(ii) If there is no person entitled to an accounting pursuant to paragraph (i), provide a full, written accounting of the resident's trust account to the person designated pursuant to subsection 4(d) of this Chapter or the resident's representative.

(iii) If the funds in a deceased resident's trust account are not claimed within six (6) months after the resident's death, the funds shall be handled according to the Wyoming Probate Code.

(l) Change of ownership. A nursing facility shall, within sixty (60) days before a change of ownership:

(i) Provide a written accounting of all resident trust accounts to the new owner; and

(ii) Provide a written accounting to each resident or resident representative of all transactions from the date of the last quarterly report and the balance in the account on the date of the accounting.

(iii) On or before the effective date of the change of ownership, the nursing facility shall surrender all resident trust accounts to the new ownership, obtain a written receipt for such funds, and otherwise comply with the provisions of the Rules and Regulations of Wyoming Medicaid, Chapter 7, Nursing Home Reimbursement System.

(iv) Failure to comply with the provisions of this subsection shall result in the nursing facility transferring ownership and the new ownership remaining jointly liable for all resident trust accounts entrusted to the nursing facility at or before the time of the change of ownership.

(m) Accounting principles. All accountings required by this Chapter shall be performed in accordance with generally accepted accounting principles (GAAP).

Section 7. Audits of Resident Trust Accounts.

(a) Audits are subject to the requirements of the Rules and Regulations of Wyoming Medicaid, Chapter 16, Medicaid Program Integrity.

(b) Repayment of missing funds. The nursing facility shall, within ten (10) days after receipt of notice of missing funds, replace such funds and provide a written accounting of such replacement to the Department, even if the nursing facility has requested reconsideration or requested an administrative hearing regarding the determination of missing funds. Missing funds are personal funds for which a facility is responsible, which are determined after an audit to be missing or otherwise unaccounted for. If the nursing facility does not replace the missing funds, the Department may recover such funds from the facility subject to the requirements of the Rules and

Regulations of Wyoming Medicaid, Chapter 16, Medicaid Program Integrity.

Section 8. Delegation of Duties. The Department may delegate any of its duties under this rule to the Wyoming Attorney General, HHS, any other agency of the Federal, State or local government, or a private entity which is capable of performing such functions, provided that the Department shall retain the authority to impose sanctions, recover overpayments or take any other final action authorized by this Chapter.

Section 9. Interpretation of Chapter.

(a) The order in which the provisions of this Chapter appear is not to be construed to mean that any one provision is more or less important than any other provision.

(b) The text of this Chapter shall control the titles of its various provisions.

Section 10. Superseding Effect. This Chapter supersedes all prior rules or policy statements issued by the Department, including manuals and/or bulletins, which are inconsistent with this Chapter.

Section 11. Severability. If any portion of these rules is found invalid or unenforceable, the remainder shall continue in effect.