

Department of Health and Social Services

DHSS Policy Memorandum 24

August 6, 2002

Subject: Safeguarding Management of Resident/Client Funds

I. PURPOSE

To establish guidelines that provide accountability for property and the management, receipt, and disbursement of each resident/client's funds. Furthermore, this policy should provide direction to the respective divisions for the development and implementation of internal policies on this subject; however; no part of this departmental policy may be voided.

II. POLICY

In an effort to support resident/client independence and self management, the Department of Health and Social Services (DHSS) shall safeguard and help manage the personal property and finances of those residents/clients housed and cared for in state operated programs or programs operated by a contracted provider.

III. APPLICABILITY

This policy applies to all individuals receiving residential, day program or outpatient services from the Department of Health and Social Services or contracted provider.

IV. ENFORCEMENT

Any person involved in misappropriations of a residents/clients funds or property shall be subject to disciplinary action within DHSS. In addition, the person is subject to criminal prosecution in accordance with Title 11 Del. C. § 841(c)(2)(3)(a)(b).

V. DEFINITIONS

- A. Co-mingling of Individual Funds: The blending of the funds of an individual receiving services with the funds of any DHSS employee/agency. Co-mingling is strictly prohibited.
- B. Community Bank Account: An account established at a financial institution in the community for DHSS resident/client who receive residential, day program or outpatient services.
- C. Department: Refers to Delaware Health and Social Services herein known as "DHSS", as an entity including all Divisions and the Office of the Secretary.

- D. Division: An agency within the Delaware of Health and Social Services.
- E. Division Management: Employees who exercise executive, administrative, and supervisory direction within the division.
- F. Individual: Resident/Client
- G. Medicaid: A federal assistance program that is administered by the states. Eligibility is based upon financial need, disability or age. Components of the program include:
 - 1. Health insurance signified by the Medicaid card, that includes hospital and medical coverage based upon Supplemental Security Income benefits, vendor payment or Home and Community based waiver services eligibility.
 - 2. Vendor payments are monthly payments to skilled and intermediate care facilities meeting Medicaid program standards.
 - 3. Home and community based Medicaid waiver services.
- H. Misappropriation of Property or Funds: Theft of an individual's money or property; use of an individual's money or property without permission of the individual, guardian or representative payee; acceptance by staff of an individual's money or property regardless of permission; and mishandling of an individual's money or property.
- I. Organizational Representative Payee: The organization authorized by the payer of the benefit to receive benefit payments on behalf of the individual receiving services. Division management shall be responsible for providing supervision and direction in the management of benefit programs and funds.
- J. Personal Property: Property other than real property, consisting of things temporary or moveable.
- K. Personal Spending Record: An approved form/system used to record in-house funds maintained in the provider's home or a residential placement for the individual to use. The form tracks deposits and withdrawals to the in-house account, including the source of deposits and reasons for withdrawals.
- L. Provider: A person or organization under contract and certified with any division within the DHSS as having met the standards set forth by the division and any other licensing requirements.
- M. Resources: The financial assets of an individual including:
 - 1. Earned Income: The income received from gross wages or net earnings from employment.
 - 2. Unearned Income: the income received from sources that include, but are not limited to: Social Security, Supplemental Security Income, Workers' or Veterans' compensation, support and maintenance in kind, annuities, rent, interests, trusts, stocks, pensions, dividends, bonds, and/or mutual funds.
- N. Social Security Administration (SSA): The federal agency that administers and reviews the eligibility and uses of Social Security and Supplemental Security Income benefits.

VI. **RESPONSIBILITY**

A. **Procedure:**

If an employee of DHSS or contracted provider has been accused of misappropriation of resident/client funds or property, the employee shall be removed from direct contact with the resident/client. The division shall begin a detailed investigation in accordance with the Department Policy Memorandum #46 and initiate a criminal investigation by contacting the appropriate law enforcement agencies. The determination as to whether to prosecute shall be made by the law enforcement agencies.

The division director will provide leadership and assume overall responsibility for assuring policy observance.

Each division that is responsible for resident/client care shall develop or review existing division policy that discusses the day to day management of the resident's/client's monies, and inventory control of resident's/client's personal property. The standards set forth in section VII below shall be implemented into the division policy. A copy of the Division's policy should be forwarded to the Chief Policy Advisor, in the Office of the Secretary and the Director of the Division of Management Services (DMS).

B. **Reimbursement:**

The division/provider shall be responsible for ensuring reimbursement to any DHSS resident/client who receives residential, day program or outpatient services for any missing, stolen, and/or unaccounted funds and/or property that have been determined to be misappropriated. Reimbursement shall be made after a thorough investigation and documented findings. The investigation and findings shall be completed within ninety (90) days after the reporting of the alleged misappropriation to division management. A report of such findings, along with reimbursement documentation, shall be forwarded to MS.

The division director shall communicate to the Office of the Attorney General when reimbursement has been made to the resident/client by the state. If the person is found criminally responsible for the theft, any court ordered restitution should be paid to the Department.

The division director shall consult the appropriate personnel if a misappropriation of funds or property by one resident/client against another resident/client is believed to have occurred. Reimbursement to the resident/client shall be made, and restitution to the state will occur if appropriate.

VII. **STANDARDS:**

○ **General**

- A. To promote self-sufficiency, the division shall advocate and recognize the right of each individual to manage his/her own money and finances. Each individual's Interdisciplinary Team will assess the individual's capabilities to manage his/her own benefits, money and property.
- B. The division shall offer and provide organizational representative payee services under the following conditions:
 - 1. There is evidence that the DHSS resident/client who receives residential, supported-living or outpatient service is not capable of managing or directing the management of benefit payments in his or her own best interest, or;
 - 2. The individual has a legal guardian and the guardian chooses to relinquish the responsibility to the respective Division.
- C. Once selected as the organizational representative payee, the division will provide assistance and support to individuals unable to manage their own finances.
- D. The division management shall reserve the right to terminate the responsibility of serving as the organizational representative payee for the following reasons:
 - 1. Intentional falsification of information regarding all resources and assets by the resident/client receiving services, a family member acting on the individual's behalf, an advocate, or guardian.
 - 2. Refusal by the resident/client to provide financial information or evidence when requested by the department, Social Security Administration, or Medicaid. Financial information or evidence for individuals ages 18 years or older shall be limited to resources and/or assets established under the individual's social security number.
 - 3. The resident/client is no longer receiving benefits or has been discharged from the division.

Note- Termination of such responsibility releases the division from future claims arising from such resident/client.

- E. A resident's/client's funds shall not be expended for goods and services that the state/provider is required to provide according to the Social Security Administration and Medicaid guidelines. The division shall not spend a resident's/client's funds in a way that would leave him or her without necessary items or services (housing, food, clothing, medical care).
- F. Employees shall not borrow from or lend money to an individual receiving services. Employees are also prohibited from co-owning

and or/ co-signing with the resident/client. Only in circumstances where the division has been designated the organizational representative payee shall the employee act as a custodian of any bank account of an individual receiving services.

G. Employee shall not sell goods and/or services to an individual receiving services from the Division.

○ **Audits:**

- . On a quarterly basis, the division shall perform random audits of at least 15% of their resident's/client's personal spending records in which the division serves as the representative payee. The results of the audits will be summarized and reviewed with the division director and facility director quarterly.
- A. Divisions shall receive audits from the Social Security Administration, State Auditor's Office, and the Division of Management Services (DMS), Revenue Management Unit. Divisions shall be responsible for completing an annual accounting of each resident/client's benefits via the filing of various reports.
- B. Contract provider agencies shall be required to conduct an independent annual professional audit of the resident/client funds that shall be submitted to the division prior to the end of each fiscal year. Audit findings shall be reviewed with division management.
- C. Contract provider agencies shall be required to develop and submit internal policies and procedures regarding resident/client funds management to the division management or said designee. The policies/procedures submitted shall meet the standards within this policy.

○ **Resident/Client Accounts**

- . The division shall establish and maintain a system that assures a full and complete accounting of each resident's/client's personal funds entrusted to the organization/agency and precludes any commingling of resident's/client's funds with the division's funds or with the funds of any DHSS employee.
- A. If appropriate, the division shall ensure that guidelines are in place for residents /clients residing in community living arrangements and participating in a division's organizational representative payee program to establish community bank accounts. The accounts shall be opened within 30 days of residential placement. The account will be titled to the individual receiving services (when appropriate) and generate a monthly statement, which includes cancelled checks (if applicable).
- B. In cases where financial institutions will not permit the resident/client to open an account in his/her own name due to the individual's inability to contract for business, the division will review the resident/clients circumstances on a case by case basis to best determine the resident's/client's needs.

- C. Providers shall not be permitted to close a resident's/client's community bank account without the written approval of the authorized division management. Management shall document the approval to close an account.
- o **Monitoring/Safeguarding Resident/Client Funds:**
 - . Division management shall be responsible for coordinating and monitoring oversight of all financial matters for the resident/client for whom the division/provider have been designated as representative payee.
 - A. Division management shall be responsible for establishing guidelines for expenditure authorization and approval, including conducting quarterly reviews. Any discrepancies exceeding \$100 per incident shall be reported to the DMS Budget & Program Analysis Unit.

VIII. IMPLEMENTATION

- . This revised policy memorandum is effective August 6, 2002.
- A. This Department Policy supersedes all other policies, directives, or rules related to the subject.
- B. Divisions shall take the necessary action to create their own policy on this subject and review for possible changes on an annual basis.

Vincent P. Meconi August 6, 2002
Vincent P. Meconi, Secretary