



## *DELAWARE HEALTH AND SOCIAL SERVICES*

### **DHSS Policy Memorandum #24**

**Effective: July 3, 2024**

## **Safeguarding and Management of Client/Resident Funds and Property**

### **I. PURPOSE:**

The Department of Health and Social Services (DHSS) is establishing guidelines that provide accountability for the property of clients we serve in residential settings as well as the management, receipt, and disbursement of residents' funds.

### **II. SCOPE:**

This policy applies to all permanent full-time, permanent part-time, contractual, temporary, limited term, intern, volunteer, and casual/ seasonal employees of DHSS.

### **III. DEFINITIONS:**

**Co-mingling of Individual Funds:** The blending of the funds of an individual receiving services with the funds of any DHSS employee or agency. Co-mingling of funds is strictly prohibited.

**Community Bank Account:** An account established at a financial institution in the community for DHSS clients who receive residential services.

**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 of an individual's money or property regardless of permission; and mishandling an individual's money or property.

**Organizational Representative Payee:** The division or provider authorized by the payer of the benefit to receive benefit payments on behalf of the individual receiving services.

**Personal Spending Record:** A formal method of tracking funds maintained by the provider which tracks deposits and withdrawals to and from the client's account, the source of deposits, and the reasons for withdrawals or expenditures.

### **IV. POLICY:**

It is the policy of DHSS to protect and treat client property with respect and ensure the appropriate management of funds of clients who reside in a DHSS facility. The Office of the Secretary (OSEC) Administration ensures effective oversight for the safeguarding and management of funds and property for each resident/client we serve, for whom DHSS, a DHSS Division, or a contracted provider has been designated as the organizational representative payee.

To ensure effective management of resident funds DHSS Divisions are responsible for:

- Promoting self-sufficiency by ensuring the DHSS resident/client is assessed on their capabilities to manage their own benefits, finances, and property.

- Offering guidance and providing organizational representative payee services when evidence supports that the DHSS resident/client is not capable of managing or directing the benefit payments in their own best interest.
- Establishing and maintaining a system that ensures accounting of each resident's funds and property entrusted to the Division and precludes any co-mingling of resident's funds with the Division's funds or with the funds of any DHSS employee.
- Ensuring standards are in place for DHSS clients residing in community living arrangements and participating in a Division's organizational representative payee program to establish community bank accounts, if appropriate.
- Ensuring appropriate approvals are obtained for closing a client's community bank account.
- Reserving 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 any of the following: the client receiving services, a family member acting on the individual's behalf, their advocate, or their guardian.
  2. Refusal by the client to provide financial information or evidence of resources when requested by DHSS, the Social Security Administration or the Centers for Medicare and Medicaid Services (CMS).
  3. The client is no longer receiving DHSS services.
- Ensuring resident's/client's funds are not expended for goods and services that the state/provider is required to provide according to the Social Security Administration and/or CMS guidelines. The Divisions will not spend a resident's/client's funds in a way that would leave him or her without necessary items or services, e.g., housing, food, clothing, medical care.
- Ensuring DHSS staff and/or contracted providers adhere to guidelines for not borrowing from, lending money to, or selling goods and/or services to an individual receiving services from the Division. DHSS staff are prohibited from co-owning and/or co-signing financial agreements with a resident/client. Only in circumstances where the Division has been designated the organizational representative payee can the employee act as a custodian of any bank account of an individual receiving services.
- Ensuring initiation of a detailed investigation in accordance with DHSS Policy Memorandum #46 Responding to Reportable Incidents & Allegations, if a DHSS employee or contracted provider has been accused of misappropriation of resident funds or property.
- Ensuring reimbursement to any DHSS resident/client for any missing, stolen, and/or unaccounted funds and/or property that have been determined to be misappropriated. A thorough investigation and findings will be completed within ninety (90) days after the reporting of the alleged misappropriation to DHSS. A report of such findings, along with reimbursement documentation will be forwarded to the appropriate OSEC Administration designee. Communicating with the appropriate DHSS staff and the Office of the Attorney General when reimbursement has been made to the resident/client by the state.
- Consulting with the appropriate personnel if a resident/client is found criminally responsible for theft. 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 will be made, and restitutions to the state will occur, if appropriate.
- Performing random quarterly audits of at least 15% of the resident's/client's personal spending records in which the Division serves as the representative payee.
- Establishing and maintaining a system that assures a full and complete accounting of each resident's/client's funds and property entrusted to the organization/agency and precludes any

co-mingling of resident's/client's funds with the Division's funds or with the funds of any DHSS employee or contract provider. The audit results will be summarized and reviewed by the facility director and the appropriate DHSS leadership on a quarterly basis.

- Completing an annual accounting of each resident's benefits via the filing of appropriate reports. Ensuring audits are received from the Social Security Administration, State Auditor's Office, Revenue Management Unit and OSEC Administration. Requiring contract provider agencies to perform independent annual professional audits of the resident/client funds and that audit findings be submitted and reviewed by the Division prior to the end of each fiscal year. Divisions will comply with audit findings and ensure updates are made to satisfy compliance standards.
- Ensuring contract provider agencies develop internal policies and procedures that meet the standards outlined in this policy and submit documents to the assigned DHSS designate for record retention.


If any part of this policy memorandum conflicts with any federal law, state law, Executive Order, or any mandate, only the conflicting part of the policy will become null and void; the balance of the policy will remain in effect until the policy is revised.

Appropriate disciplinary action may be taken against any employee who violates or misuses this policy. Based on the seriousness of the offense, disciplinary action may include, but not be limited to, verbal reprimand, written reprimand, suspension, or termination of employment. Any person involved in misappropriations of a resident's/client's funds or property shall be subject to disciplinary action within DHSS. 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. In addition, the person may be subject to criminal prosecution in accordance with Title 11 Del C. 841.

## V. IMPLEMENTATION:

This Policy Memorandum replaces previous versions of DHSS PM #24 and is effective upon the signature of the Cabinet Secretary.

The Office of the Secretary will be responsible for maintaining this policy and any revisions.

  
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Josette D. Manning, Esq.  
Cabinet Secretary

7/8/2024 | 8:22 AM EDT

Date

**The Department of Health and Social Services is committed to improving the quality of life of Delaware's citizens by promoting health and well-being, fostering self-sufficiency, and protecting vulnerable populations.**