

Title 23: Division of Medicaid

Part 207: Institutional Long Term Care

Part 207 Chapter 2: Nursing Facility

Rule 2.11: Resident Funds

A. Basic Requirements

1. The facility must, upon written authorization by the resident, accept responsibility for holding, safeguarding and accounting for the resident's personal funds. The facility may make arrangements with a federally or state insured banking institution to provide these services, but the responsibility for the quality and accuracy of compliance with the requirements of this section remains with the facility. The facility may not charge the resident for these services, but must include any charges in the facility's basic daily rate.
2. Resident fund accounts are reviewed to assist facilities in developing acceptable systems of accounting for resident funds.
3. Penalties may be assessed on any licensed nursing facility that fails to maintain an auditable system of accounting for residents' funds or has had repeated instances of noncompliance with the provisions of federal law and of the requirements contained in this section.

B. Statement Provided at Time of Admission - The facility must provide each resident and responsible party with a written statement at the time of admission that states the following:

1. All services provided by the facility must be distinguished between the services included in the facility's basic rate and those services not included in the facility's basic rate. The statement must include both the services that may be charged to the resident's personal funds and the amount of such charges.
2. There is no obligation for the resident to deposit funds with the facility.
3. The resident has the right to select how personal funds will be handled. The following alternatives must be included:
 - a) The resident's right to receive, retain and manage his/her personal funds or to have this done by a legal guardian, if any,
 - b) The resident's right to apply to the Social Security Administration to have a representative payee designated for purposes of federal or state benefits to which he/she may be entitled,
 - c) The resident's right to designate, in writing, another person to act for the purpose of

managing his/her personal funds, and

- d) The resident's right to require the facility to hold, safeguard, and account for such personal funds under a system established and maintained by the facility, if requested by the resident.
4. Any charge for this service is included in the facility's basic rate.
 5. The facility is permitted to accept a resident's funds to hold, safeguard, and account for, only upon the written authorization of the resident or representative, or if the facility is appointed as the resident's representative payee.
 6. The facility is required to arrange for the management of the resident's personal funds if the resident becomes incapable of managing his/her personal funds and does not have a representative.
 7. The facility must maintain a complete copy of its resident trust fund policies and procedures and must make them accessible and available for review.
- C. Individual Records - The facility must maintain current, written, individual records of all financial transactions involving the resident's personal funds which the facility has been given for holding, safeguarding, and accounting. The facility must act as fiduciary of the resident's funds and account for these funds in an auditable manner. The facility must use Generally Accepted Accounting Principles (GAAP) when maintaining these records. GAAP means that the facility, for example, employs proper bookkeeping techniques by which it can determine, upon request, all deposits and withdrawals for each resident, how much interest these funds have earned for each resident, and the amount of individual resident funds.
- D. Limitation on Charges to Resident Funds
1. Acceptable charges to resident funds include, but are not limited to, the following general categories and examples, if proper authorization and documentation, as specified in under the heading "Individual Records" of this section is provided. The facility must notify the resident and/or responsible party, in advance, that there will be a charge for non-Medicaid covered items and services, such as:
 - a) Personal communication/entertainment items and services, like a telephone, television, radio, and computer,
 - b) Personal comfort items, including tobacco, novelties, and candy,
 - c) Items and services in excess of those included in the Medicaid per diem rate, such as grooming or cosmetic items which are requested by the resident. The resident must be furnished in advance with an itemized statement of charges for these items and services,

- d) Personal clothing,
 - e) Personal reading material,
 - f) Gifts purchased on behalf of the resident,
 - g) Flowers and plants for the resident's room,
 - h) Entertainment and social events outside the scope of that provided by the facility and included in the Medicaid per diem rate,
 - i) Private sitters or aides,
 - j) Private room provided that a private room is not medically necessary, such as isolation for infection control,
 - k) Specially prepared or alternative food requested instead of or in addition to the food generally prepared by the facility, and
 - l) Authorized cost-sharing in Medicaid-covered services, including Medicaid Income liability for room and board.
2. Unacceptable charges to resident funds include the following categories and examples:
- a) Any charge not authorized and documented.
 - b) Nursing, dietary, activities, room/bed maintenance, and personal hygiene services.
 - c) Medically necessary items and services are reimbursed as part of the Medicaid per diem rate. However, any properly made charge for equipment or services, such as geriatric or geri-chairs, wheelchairs, support shoes, gurneys, and counseling services, must be supported by a written statement from the resident's physician that documents the item or service was not of medical necessity. Failure to maintain the physician's denial of medical necessity statement may result in the facility's reimbursement of charges to a resident's account.
 - d) Medical transportation. All transportation for nursing facility residents, whether emergency or non-emergency must be arranged by nursing facility staff. Transportation that does not qualify for benefits through the Ambulance Program must be arranged through a family member, if available. Transportation may also be arranged using nursing facility vehicles, or by utilizing outside resources. Costs for providing this level of service are to be reported by the nursing facility on their cost reports and are reimbursed through the facility per diem. The nursing facility may not bill the resident or family for any means of transportation. For cases requiring transportation other than by ambulance to and from dialysis, the nursing facility may make referrals to the Non-Emergency Transportation (NET) Program. The NET

provider must, in these cases, submit claims to Medicaid for direct reimbursement. If a resident is transferred from a nursing facility to a hospital and remains hospitalized for longer than fifteen (15) days and is discharged from the nursing facility, transportation for these residents should be arranged by the hospital. If there has not been a final discharge from the nursing facility and the resident had a hospital stay of less than fifteen (15) days, transportation back to the nursing facility must be arranged by the nursing facility staff.

- e) Any item or service requiring a waiver of the resident's personal needs allowance, such as for repayment of a debt owed the facility. The personal needs allowance may be used by a nursing facility for nursing facility costs only upon the written authorization of the resident or the resident's responsible party and with the understanding by the resident that this action is voluntary and is not a requirement.
 - f) Loans or collateral for loans to anyone, including the facility and other residents in the trust fund. A resident's balance must be positive at all times, as a resident with a negative balance is in effect borrowing money from the other residents.
 - g) Transfers or gifts of money not authorized by the resident, such as when the resident's responsible party transfers funds without documentation that the funds were used for the benefit of the resident.
 - h) Any item or service as a condition of admission or continued stay.
- E. Resident's Access to Financial Records and Quarterly Statements - The facility must provide each resident, responsible party, or legal representative of each resident, reasonable access to the resident's financial records. In addition, the facility must provide a written statement, at least quarterly, to each resident, responsible party, or legal representative. The quarterly statement must reflect any resident funds which the facility has deposited in an interest bearing or a non-interest bearing account, as well as any resident funds held by the facility in a petty cash account.
- F. Comingling of Residents' Funds - The facility must keep any funds received from a resident for holding, safeguarding and accounting separate from the facility's funds and from the funds of any person other than another resident in that facility. The facility may not open any additional accounts within the trust fund account, such as donation accounts, miscellaneous accounts, or the like. Only funds of the facility's residents may be maintained as part of the resident trust fund account.
- G. Deposit of Resident Funds into an Interest or Non-Interest Bearing Account
1. The facility must deposit any resident's personal funds in excess of fifty dollars (\$50.00) in an interest bearing account(s) that is separate from any of the facility's operating accounts. The facility must credit all interest earned on such separate account(s) in one of the following ways, at the election of the facility:

- a) Prorated to each resident's account on an actual interest-earned basis; or
 - b) Prorated to each resident's account on the basis of its end-of-quarter balance.
2. The facility must maintain a resident's personal funds that do not exceed fifty dollars (\$50.00) in a non-interest bearing account, an interest-bearing account, or a petty cash fund. However, if the facility maintains a resident's personal funds of fifty dollars (\$50.00) or less in a pooled account with all other residents' funds, interest is accumulated based on the total amount of funds in the trust fund account; therefore, all residents must be allocated interest proportionately in that instance.
 3. The facility may neither limit nor restrict any resident with funds on deposit within the resident trust fund account to a maximum of fifty dollars (\$50.00). A facility may not establish policy that conflicts with this absolute right of the residents for the facility to hold, safeguard, manage, and account for all residents' funds deposited with the facility.

H. Access to Funds

1. Funds held in the facility - The residents must have access to funds daily during normal business hours and for some reasonable time of at least two (2) hours on Saturdays and Sundays. The facility must, upon request or upon the resident's transfer or discharge, during normal business hours, return to the resident, the legal guardian or the representative payee all funds remaining that the facility has received for holding, safeguarding and accounting and that are maintained in a petty cash fund.
2. Funds held outside the facility - For a resident's personal funds that the facility has received and that are deposited in an account outside the facility, the facility, upon request, must, within five (5) business days, return to the resident, the legal guardian, or the representative payee, all or any part of those funds.

I. Accounting on Change of Ownership

1. Duties of new owner - Upon sale of the facility or other transfer of ownership, the facility must provide the new owner with a written accounting of all resident funds being transferred and obtain a written receipt for those funds from the new owner.
2. Duties to resident - The facility must give each resident or representative a written accounting of any personal funds held by the facility before any transfer of ownership occurs.
3. Rights of resident - In the event of a disagreement with the accounting provided by the facility, the resident retains all rights and remedies provided under state law.
4. Sponsor signatures for fiscal responsibility - A nursing facility cannot require a family member or other individual to sign a financial responsibility statement for a Medicaid resident. In instances where Medicaid beneficiaries have no family member or individual

available for such signatures, it is clearly discriminatory for a Medicaid provider to refuse admission to the resident.

J. Accounting Upon Death or Discharge of Resident

1. The facility must, within thirty (30) days of a resident's death or discharge, convey the resident's funds and a final accounting of those funds to the individual or probate jurisdiction administering the resident's estate. If the deceased resident's estate has no executor or administrator, the facility must convey the resident's funds and provide a final accounting to the:
 - a) Resident's next of kin,
 - b) Resident's representative, or
 - c) Clerk of the probate court of the county in which the resident died.
2. Disposition of Funds for Deceased Resident Who Dies Intestate Within a Long-Term Care Facility
 - a) Any Medicaid beneficiary receiving medical assistance for services provided in a long-term care facility who dies intestate and leaves no known heirs shall have deemed, through acceptance of such medical assistance, the Division of Medicaid as the beneficiary of funds in his/her possession at the time of death, in an amount not to exceed two hundred fifty dollars (\$250.00). The Division of Medicaid is the beneficiary of these funds regardless of whether a claim is later made to the beneficiary's property in accordance with Miss. Code Ann. § 43-13-120(3) and (4).
 - b) The long-term care facility shall make a report to the State Treasurer of all funds, including any accrued interest, in the possession of the Medicaid beneficiary at the time of death. The report of such funds shall be on a form prescribed or approved by the State Treasurer and shall include the name of the deceased Medicaid beneficiary and his/her last known address prior to entering the facility, the name and last known address of each person who may possess an interest in such funds, and any other information which the State Treasurer prescribes by regulation. This report must be filed with the State Treasurer, with a copy to the Division of Medicaid, prior to November 1 of the year in which the facility provided services to the Medicaid beneficiary having funds to which this section applies.
 - c) Within one hundred twenty (120) days from November 1 of each year in which a report is made, the State Treasurer shall cause notice to be published in the newspaper in accordance with Miss. Code Ann. § 43-13-120(3). The Division of Medicaid shall pay the cost of publishing the notice.
 - d) The long-term care facility that makes a report of funds of a deceased Medicaid beneficiary shall pay over and deliver such funds, including any accrued interest, to

the State Treasurer not later than ten (10) days after notice of such funds has been published by the State Treasurer.

- e) If within ninety (90) days of the State Treasurer's publication no claims are made to the funds in excess of the two hundred fifty dollars (\$250.00) the Division of Medicaid has already received pursuant to 2.a) above, the State Treasurer shall place those funds in a special account in the State Treasury to the credit of the Division of Medicaid.

3. Disposition of Funds for Deceased Resident Who Dies Intestate in a State Institution

- a) Miss. Admin. Code Part 207, Rule 2.11.J.2. shall not be applicable for residents of any state institution.
- b) The funds of any resident in a state institution who dies intestate and without any known heirs may be deposited in the facility's operational account, after a period of one (1) year from the date of death.

K. Surety Bond

1. The facility must purchase a surety bond or otherwise provide assurance as to the security of all personal funds of residents deposited with the facility. A surety bond is an agreement between the principal (the facility), the surety (the insurance company), and the obligee (the residents of the trust fund), wherein the facility and the insurance company agree to compensate the resident for any loss of residents' funds that the facility holds, safeguards, manages and for which the facility accounts. The purpose of the surety bond is to guarantee that the facility will pay the resident for losses occurring for any failure by the facility to hold, safeguard, manage, and account for the residents' funds; that is, losses occurring as a result of acts or errors of negligence, incompetence or dishonesty.
2. Unlike other types of insurance, the surety bond protects the obligee (the residents of the trust fund), not the principal, from loss. The surety bond differs from a fidelity bond, also called employee dishonesty insurance or a crime bond, which covers no acts or errors unless they involve dishonesty.
3. The surety bond is the commitment of the facility to meet the standard of conduct. The facility assumes the responsibility to compensate the obligee (the residents of the trust fund), for the amount of the loss up to the entire amount of the surety bond. Therefore, the surety bond coverage must be for an amount equal to or greater than the highest daily balance for all resident funds held on deposit. A copy of the surety bond and evidence of the payment of the premium for the appropriate bond coverage amount must be kept at the facility and available for inspection.
4. Reasonable alternatives to a surety bond must:

- a) Designate the obligee, (the resident, individually, or in aggregate), who can collect in case of a loss,
 - b) Specify that the obligee may collect due to any failure by the facility, whether by commission, bankruptcy, or omission, to hold, safeguard, manage, and account for the residents' funds, and
 - c) Be managed by a third party unrelated in any way to the facility or its management.
5. The facility cannot be named as an obligee. Self-insurance is not an acceptable alternative to a surety bond. Likewise, funds deposited in bank accounts protected by the Federal Deposit Insurance Corporation (FDIC), or similar entity, are not acceptable alternatives.
 6. If a corporation has a surety bond that covers all of its facilities, the corporation's surety bond must be sufficient to ensure that all of the residents in the corporation's facilities are covered against any losses due to acts or errors by the corporation, its agents, or any of its facilities. The intent of focus is to ensure that if a corporation were to go bankrupt or otherwise cease to operate, the funds of the residents in the corporation's facilities would be protected.

L. Resident Incapable of Managing Funds

1. If a resident is incapable of managing personal funds and has no representative, the facility must refer the resident to the local office of the Social Security Administration (SSA) and request that a representative payee be appointed.
2. In the time period between notification to the appropriate agencies, institution of formal guardianship proceedings, and notification to the local SSA office and the actual appointment of a guardian or representative payee, the facility must serve as temporary representative payee for the resident.
3. In order to safeguard and maintain an accurate accounting of the resident's account, funds received on behalf of the resident must initially be deposited in the trust fund account before they can be disbursed for any expenses. A resident's monthly income source, like a Social Security check, cannot be commingled with facility funds prior to those funds being transferred to the trust fund account.

M. Notice of Resource Limits, Medicaid or SSI

1. The facility must notify each resident receiving medical assistance under Title XIX, Medicaid, when the amount in the resident's account reaches two hundred dollars (\$200) less than the SSI resource limit and five hundred dollars (\$500), less than the Medicaid resource limit, to remain eligible for Medicaid long term care benefits. The notice must include the fact that if the amount in the account, in addition to the value of the resident's other nonexempt resources, reaches the applicable resource limits, the resident may lose eligibility for Medicaid or SSI.

2. The facility must issue written notification to the Medicaid regional office of any resident receiving medical assistance under Title XIX when the resident's account balance reaches the applicable resource limit.

N. Glossary and Explanation of Common Terms Used in the Performance of Resident Trust Fund Reviews

1. Basic Rate - Also referred to as the standard or per diem rate. This is the rate that Medicaid pays the facility per Medicaid resident per day, as established periodically from cost reports and assessment data. The basic rate is important in the discussion of resident funds in that items and services included in the rate cannot be charged to a resident; the resident must be informed, in writing at the time of admission, of the items and services provided by the facility, as well as the items and services not included in the basic rate, and the amount of such charges that may be charged to the resident.
2. Book Balance - The total balance of all resident trust funds and petty cash held according to the accounting ledger.
3. Census - The total number of residents in a facility.
4. Compliance - The Omnibus Budget Reconciliation Act of 1987, Paragraph 17, 399, Section 1919(6)(A) requires a facility to establish and maintain a system that fully and completely accounts for the resident's funds managed by the provider. A facility that does this is issued an opinion by the Division of Medicaid that "the facility generally complies with Section 1919(6)(A)." A facility may be found to be in compliance and still have minor errors in its resident fund system; however, for a facility that lacks an accounting system, lacks several parts of an accounting system, or has a sufficient number of exceptions that would indicate a breakdown of the system of accounting, an opinion may be issued that "the facility does not comply with Section 1919(6)(A)."
5. DOM - Division of Medicaid.
6. Fiduciary - A fiduciary has rights and powers normally belonging to another person that must be exercised with a high standard of care for the benefit of the beneficiary. Regarding resident funds, a party who is entrusted to conduct the financial affairs of another person is acting in a fiduciary or trust capacity and has responsibility to use due care and to act in the best interests of the party for whom he is acting in this capacity. A party acting in a fiduciary capacity is also responsible to give an accounting of all transactions made on behalf of the party for whom he is acting in this capacity.
7. Fiscal Agent - The agency, under contract with the Division of Medicaid, for the purpose of disbursing funds to providers of services under the Medicaid program. The fiscal agent collects eligibility and payment information from agencies administering Medicaid and processes the information for payment to providers.

8. GAAP - Generally Accepted Accounting Principles. GAAP for resident trust funds means that the facility employs proper bookkeeping techniques by which it can determine, upon request, all deposits and withdrawals for each resident, how much interest these funds have earned for each resident and the amount of each individual resident's fund balance. Proper bookkeeping techniques may, include a computer software package for the accounting of resident trust funds, an individual ledger card, ledger sheet or equivalent established for each resident on which only those transactions involving the resident's personal funds are recorded and maintained.
9. Intestate - Without a valid will at the time of death.
10. Legal Guardian - A legal guardian, or conservator, is a person or persons appointed by the court of jurisdiction to manage the resident's income and assets in the best interest of the resident. The court may require a court order prior to disbursements of the resident's funds, and/or a periodic accounting to the court to document income and disbursements. A legal guardian or conservator must supply documentation to the facility for disbursements from the resident fund, just as any other responsible party for any other resident.
11. Medicaid Income - The Medicaid income is the dollar amount shown on a resident's form DOM-317. It is the maximum liability that the resident owes to the facility each month for room and board.
12. Medically Necessary Items and Services - Those items and services that are documented by the attending physician or medical personnel delegated by the attending physician as reasonable and necessary. If a resident's personal funds are expended for an item or service covered in the facility's basic rate, evidence must be in the resident's file to verify that the item or service is not medically necessary, and therefore justifiable as an expenditure of the resident's personal funds.
13. Obligee - The party to whom the facility is legally or morally bound, i.e. "the residents of the trust fund". The obligee is the beneficiary of funds collected in the event of the failure of the facility to hold, safeguard, manage, and account for the resident's funds.
14. Per Diem Rate - Refer to "Basic Rate."
15. Personal Needs Allowance (PNA) - The amount of funds a resident is allowed to keep after room and board liability, supplemental health insurance premiums, and allowable minimum monthly needs allowances are deducted from the resident's gross income.
16. Plan of Correction - An acceptable plan of correction must address each exception noted in the findings letter and include the following:
 - a) Documentation that the exception has been corrected,
 - b) The measures that have been put in place to ensure that the exception will not be

repeated, and

- c) The measures that have been put in place to monitor the continued effectiveness of the changes.
17. Reconciliation - At all times, the total of the residents' funds held, as noted from the bank's current statement of the balance and any cash held at the facility, must equal the total of the resident's funds as noted from the facility's accounting ledger for all residents participating in the resident trust fund. Any difference between the two (2) totals must be accounted for by documented outstanding credits and debits, or documented reconciling items such as unposted current interest, unposted petty cash vouchers, or corrections.
 18. Representative Payee - A resident may have someone designated to receive and manage their Social Security, Veterans Administration, Railroad Board, or other federal or state benefits. That party is the representative payee for the resident. A facility must be willing to be designated as a temporary representative payee if no responsible party is available to represent the resident.
 19. Resident's Personal Funds - All of a resident's money on deposit with the facility, including all of the resident's funds, regardless of the source, that are placed in trust at the facility.
 20. Resource Limit - The maximum amount of assets a resident may have in order to qualify for Medicaid services. For trust fund review purposes, there are two(2) resource limits to be considered, the Supplemental Security Income (SSI) resource limit and the Medicaid resource limit.
 21. Responsible Party - For resident trust fund purposes, may be known as sponsor or residents representative. A resident may serve as his own responsible party. In other instances, the responsible party is the individual who signs appropriate documentation, commonly known as a Trust Fund Authorization form, to assist the resident in managing the personal funds of the resident that are maintained within the resident trust fund account. Any withdrawal of funds by a responsible party must be for the benefit of the resident, must be signed, and must be supported by appropriate documentation (e.g., receipts or invoice).
 22. State Institution - These are facilities owned and operated by the State, such as: Mississippi State Hospital, Ellisville State School, East Mississippi State Hospital, North Mississippi Regional Center, Hudspeth Regional Center, South Mississippi Regional Center, University of Mississippi Medical Center, and the Boswell Regional Center. This listing is not intended to be all inclusive.
 23. Testate - Having a valid will at the time of death.
 24. Trial Balance - A listing of all residents participating in the resident trust fund and the balance of each resident's trust fund.

25. Written Authorization - Authorization to establish a resident trust fund for a resident must be in the form of a written statement signed by the resident or responsible party. In addition, authorization to perform a specific transaction of funds for the resident must be in writing and/or documented with a receipt of purchase.

Source: 42 U.S.C. § 1396r; 42 C.F.R. §§ 431.53, 447.15, 483.420; Miss. Code Ann. §§ 43-13-120, 43-13-121.

History: Revised eff. 12/1/2017.

Chapter 3: Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID)

Rule 3.8: Resident Personal Funds

- A. The intermediate care facility for individuals with intellectual disabilities (ICF/IID) must, upon written authorization by the resident, and/or guardian or legal representative accept responsibility for holding, safeguarding and accounting for the resident's personal funds.
 1. The ICF/IID may make arrangements with a federally or state insured banking institution to provide these services, but the responsibility for the quality and accuracy of compliance with the requirements of this rule remains with the ICF/IID.
 2. The ICF/IID must include any charges for this service in the ICF/IID's basic daily rate and cannot charge the resident.
- B. Penalties may be assessed on any ICF/IID that fails to maintain an auditable system of accounting for residents' personal funds or has had repeated instances of noncompliance with federal regulations.
- C. The ICF/IID must provide each resident and/or guardian or legal representative with a written statement at the time of admission that states the following:
 1. All services provided by the ICF/IID, distinguishing between services are included in the ICF/IID's basic rate and those services that are not. The written statement must include the services that may be charged to the resident's personal funds and the amount of such charges.
 2. There is no obligation for the resident to deposit funds with the ICF/IID.
 3. The resident has the right to select how personal funds will be handled including the following rights to:
 - a) Receive, retain, and manage his/her personal funds or have this done by a guardian or legal representative, if any,

- b) Apply to the Social Security Administration to have a representative payee designated for purposes of federal or state benefits to which he/she may be entitled,
 - c) Designate, in writing, another person to act for the purpose of managing his or her personal funds except when the resident does not deposit funds with the ICF/IID, and
 - d) Require the ICF/IID to hold, safeguard and account for resident personal funds under a system established and maintained by the ICF/IID requested by the resident.
4. Any charge for this service is included in the ICF/IID's basic rate.
5. The ICF/IID may only accept a resident's personal funds to hold, safeguard and account when:
- a) Provided with written authorization by the resident and/or guardian or legal representative, or
 - b) The ICF/IID is appointed as the resident's representative payee.
6. The ICF/IID is required to arrange for the management of the resident's personal funds if the resident becomes incapable of managing his/her personal funds and does not have a guardian or legal representative.
7. The ICF/IID must maintain a complete copy of its resident's personal funds policies and procedures and must make them accessible and available for review.
- D. The ICF/IID must maintain current, written, individual records of all financial transactions involving the resident's personal funds which have been given for holding, safeguarding, and accounting.
- 1. The ICF/IID must act as fiduciary of the resident's personal funds and account for these funds in an auditable manner.
 - 2. The ICF/IID must use Generally Accepted Accounting Principles (GAAP) when maintaining these records. The Division of Medicaid requires the ICF/IID to employ proper bookkeeping techniques by which it can determine upon request all deposits and withdrawals for each resident, how much interest these funds have earned for each resident, and the amount of each resident's personal funds.
- E. Acceptable charges to resident personal funds include, but are not limited to, the following general categories and examples, if properly authorized and documented as specified in Miss. Admin. Code Rule 3.8.D. is provided. The ICF/IID must notify the resident in advance of charges for non-Medicaid covered items and services, including, but not limited to:
- 1. Personal communication/entertainment items and services, including, but not limited to,

telephone, television, radio, and computer.

2. Personal comfort items, including, but not limited to, tobacco, novelties, and candy.
 3. Items and services in excess of those included in the Medicaid per diem rate, including, but not limited to, grooming or cosmetic items requested by the resident. The resident must be furnished in advance with an itemized statement of charges for these items and services.
 4. Personal clothing.
 5. Personal reading material.
 6. Gifts purchased on behalf of the resident.
 7. Flowers and plants for the resident's room.
 8. Entertainment and social events included in the Medicaid per diem rate.
 9. Private sitters or aides.
 10. Private room, unless the private room is medically necessary including, but not limited to, isolation for infection control.
 11. Specially prepared or alternative food requested instead of, or in addition to, the food generally prepared by the ICF/IID.
 12. Authorized cost-sharing in Medicaid-covered services, including Medicaid Income liability for room and board.
- F. Unacceptable charges to resident's personal funds include, but are not limited to:
1. Any charge not:
 - a) Authorized by the resident and/or guardian or legal representative, or
 - b) Documented.
 2. Nursing, dietary, activities, room/bed maintenance, and personal hygiene services.
 3. Medically necessary items and services reimbursed as part of the Medicaid per diem rate.
 - a) Any properly made charge for equipment or services including, but not limited to, geriatric or geri-chairs, wheelchairs, support shoes, gurneys, and counseling services must be supported by a written statement from the resident's physician that documents the item or service was not medically necessary.

- b) Failure to maintain the physician's denial of medical necessity statement may result in the ICF/IID's reimbursement of charges to a resident's account.
4. Medical transportation.
- a) All transportation for ICF/IID residents, whether emergency or non-emergency, must be arranged by ICF/IID staff.
 - b) Transportation that does not qualify for benefits through the Ambulance Program must be arranged through a family member, if available. Refer to Part 201, Chapter 1.
 - c) Transportation may be arranged using the ICF/IID's vehicles or by utilizing outside resources. Costs for providing this level of service are to be reported by the ICF/IID on their cost reports and are reimbursed through the ICF/IID per diem. The ICF/IID may not bill the resident or family for any means of transportation. For cases requiring transportation other than by ambulance to and from dialysis, the ICF/IID may make referrals to the Non-Emergency Transportation (NET) Program. The NET provider must, in these cases, submit claims to the Division of Medicaid for direct reimbursement. Refer to Part 201, Chapter 2.
 - d) If a resident is transferred from an ICF/IID to a hospital and remains hospitalized for longer than fifteen (15) days and is discharged from the ICF/IID, transportation for these residents should be arranged by the hospital. If there has not been a final discharge from the ICF/IID and the resident had a hospital stay of less than fifteen (15) days, transportation back to the ICF/IID must be arranged by the ICF/IID staff.
5. Any item or service requiring a waiver of the resident's personal needs allowance, including, but not limited to, repayment of a debt owed to the ICF/IID. The personal needs allowance may be used by an ICF/IID for ICF/IID costs only upon the written authorization of the resident and/or guardian or legal representative with the understanding that this action is voluntary and is not a requirement.
6. Loans or collateral for loans to anyone, including the ICF/IID, and other residents in the trust fund. A resident's balance must be positive at all times, as a resident with a negative balance is in effect borrowing money from the other residents.
7. Transfers or gifts of money not authorized by the resident and/or guardian or legal representative including, but not limited to, the resident's guardian or legal representative transferring funds without documentation that the funds were used for the benefit of the resident.
8. Any item or service as a condition of admission or continued stay.
- G. The ICF/IID must provide each resident and/or guardian or legal representative reasonable access to his/her own financial records.

1. The ICF/IID must provide a written financial statement, at least quarterly, to each resident and/or guardian or legal representative.
 2. The quarterly financial statement must reflect any resident's personal funds which the ICF/IID has deposited in an interest bearing or a non-interest bearing account, as well as any resident personal funds held by the ICF/IID in a petty cash account.
- H. The ICF/IID must keep any funds received from a resident for holding, safeguarding and accounting separate from the ICF/IID's funds and from the funds of any person other than another resident in that ICF/IID.
1. The ICF/IID cannot open any additional accounts within the trust fund account, including donation accounts or miscellaneous accounts.
 2. Only funds of the ICF/IID's residents may be maintained as part of the resident's personal funds account.
- I. The ICF/IID must deposit any resident's personal funds in excess of fifty (\$50.00) dollars into an interest-bearing account(s) separate from any of the ICF/IID's operating accounts.
1. The ICF/IID must credit all interest earned on such separate account(s) in one of the following ways, at the election of the ICF/IID:
 - a) Prorated to each resident's personal funds account on an actual interest-earned basis, or
 - b) Prorated to each resident's personal funds account on the basis of its end-of-quarter balance.
 2. The ICF/IID must maintain a resident's personal funds that do not exceed fifty dollars (\$50.00) in a non-interest bearing account, an interest bearing account or a petty cash fund. However, if the facility maintains a resident's personal funds of fifty dollars (\$50.00) or less in a pooled account with all other resident's personal funds, and interest is accumulated based on the total amount of funds in the trust fund account, all residents must be allocated interest proportionately.
 3. The ICF/IID must neither limit nor restrict any resident with funds on deposit within the resident trust fund account to a maximum of fifty dollars (\$50.00). An ICF/IID must not establish policy that conflicts with the absolute right of residents for the ICF/IID to hold, safeguard, manage, and account for all residents' funds deposited with the ICF/IID.
- J. The residents must have access to funds daily during normal business hours and for some reasonable time of at least two (2) hours on Saturday and Sunday. The ICF/IID must, upon request or upon the resident's transfer or discharge, during normal business hours, return to

the resident, guardian, or legal representative all funds remaining that the ICF/IID has received for holding, safeguarding, and accounting in a petty cash fund.

- K. For a resident's personal funds that the ICF/IID has received and are deposited in an account outside the ICF/IID, the ICF/IID, upon request, must within five (5) business days return to the resident, guardian, or legal representative, any or all of those funds.
- L. Upon sale of the ICF/IID or other transfer of ownership, the ICF/IID must provide the new owner with a written account, prepared by a certified public accountant in accordance with the American Institute of Certified Public Accountants' Generally Accepted Accounting Principles, of all resident personal funds being transferred and obtain a written receipt for those funds from the new owner.
 - 1. The ICF/IID must give each resident, guardian, or legal representative a written accounting of any resident's personal funds held by the ICF/IID before any transfer of ownership occurs.
 - 2. In the event of a disagreement with the accounting provided by the ICF/IID, the resident retains all rights and remedies provided under state law.
 - 3. An ICF/IID cannot require a family member or other individual to sign a financial responsibility statement for a Medicaid resident. In instances where a Medicaid beneficiary has no family member or individual available for such signatures, it is clearly discriminatory for a Medicaid provider to refuse admission to the resident.

M. Accounting Upon Death or Discharge of Resident

- 1. The ICF/IID must, within thirty (30) days of a resident's death or discharge, convey the resident's funds and a final accounting of those funds to the individual or probate jurisdiction administering the resident's estate. If the deceased resident's estate has no executor or administrator, the ICF/IID must convey the resident's funds and provide a final accounting to the:
 - a) Resident's next of kin,
 - b) Resident's representative, or
 - c) Clerk of the probate court of the county in which the resident died.
- 2. Disposition of Funds for Deceased Resident Who Dies Intestate Within a Long-Term Care Facility
 - a) Any Medicaid beneficiary receiving medical assistance for services provided in a long-term care facility who dies intestate and leaves no known heirs shall have deemed, through acceptance of such medical assistance, the Division of Medicaid as the beneficiary of funds in his/her possession at the time of death, in an amount not to

exceed two hundred fifty dollars (\$250.00). The Division of Medicaid is the beneficiary of these funds regardless of whether a claim is later made to the beneficiary's property in accordance with Miss. Code Ann. § 43-13-120(3) and (4).

- b) The long-term care facility shall make a report to the State Treasurer of all funds, including any accrued interest, in the possession of the Medicaid beneficiary at the time of death. The report of such funds shall be on a form prescribed or approved by the State Treasurer and shall include the name of the deceased Medicaid beneficiary and his/her last known address prior to entering the facility, the name and last known address of each person who may possess an interest in such funds, and any other information which the State Treasurer prescribes by regulation. This report must be filed with the State Treasurer, with a copy to the Division of Medicaid, prior to November 1 of the year in which the facility provided services to the Medicaid beneficiary having funds to which this section applies.
- c) Within one hundred twenty (120) days from November 1 of each year in which a report is made, the State Treasurer shall cause notice to be published in the newspaper in accordance with Miss. Code Ann. § 43-13-120(3). The Division of Medicaid shall pay the cost of publishing the notice.
- d) The long-term care facility that makes a report of funds of a deceased Medicaid beneficiary shall pay over and deliver such funds, including any accrued interest, to the State Treasurer not later than ten (10) days after notice of such funds has been published by the State Treasurer.
- e) If within ninety (90) days of the State Treasurer's publication no claims are made to the funds in excess of the two hundred fifty dollars (\$250.00) the Division of Medicaid has already received pursuant to 2.a) above, the State Treasurer shall place those funds in a special account in the State Treasury to the credit of the Division of Medicaid.

3. Disposition of funds for deceased residents who die intestate in a state institution is as follows:

- a) Miss. Admin. Code Part 207, Rule 3.8.M.2., shall not be applicable for residents of any state institution.
- b) The funds of any resident in a state institution who dies intestate and without known heirs may be deposited in the ICF/IID's operational account, after a period of one (1) year from the date of death.

N. The ICF/IID must purchase a surety bond or otherwise provide assurance as to all personal funds of residents deposited with the ICF/IID.

1. The Division of Medicaid defines a surety bond as an agreement between the principal,

which is the ICF/IID, the surety, which is the insurance company, and the obligee, who is the resident(s) or the residents participating in the trust fund, wherein the ICF/IID and the insurance company agree to compensate the resident for any loss of residents' personal funds that the ICF/IID holds, safeguards, manages and for which the ICF/IID accounts. The purpose of the surety bond is to guarantee that the ICF/IID will pay the resident for losses occurring for any failure by the ICF/IID to hold, safeguard, manage, and account for the residents' personal funds, that is, losses occurring as a result of acts or errors of negligence, incompetence or dishonesty.

2. Unlike other types of insurance, the surety bond protects the obligee, or the residents of the trust fund, not the principal, from loss. The surety bond differs from a fidelity bond, sometimes called employee dishonesty insurance or a crime bond, which covers no acts or errors unless they involve dishonesty.
3. The surety bond is the commitment of the ICF/IID to meet the standard of conduct.
 - a) The ICF/IID assumes the responsibility to compensate the obligee, or the residents of the trust fund, for the amount of the loss up to the entire amount of the surety bond.
 - b) The surety bond coverage must be for an amount equal to or greater than the highest daily balance for all resident personal funds held on deposit.
 - c) A copy of the surety bond and evidence of the payment of the premium for the appropriate bond coverage amount must be kept at the ICF/IID and available for inspection.
4. Any reasonable alternative to a surety bond must:
 - a) Designate the obligee, or the residents, individually or in aggregate, who can collect in case of a loss,
 - b) Specify that the obligee may collect due to any failure by the ICF/IID, whether by commission, bankruptcy, or omission, to hold, safeguard, manage, and account for the residents' funds, and
 - c) Be managed by a third party unrelated in any way to the ICF/IID or its management.
5. The ICF/IID cannot be named as an obligee.
 - a) Self-insurance is not an acceptable alternative to a surety bond. Funds deposited in bank accounts protected by the Federal Deposit Insurance Corporation (FDIC), or similar entity, are not acceptable alternatives.
 - b) If a corporation has a surety bond that covers all of its facilities, the corporation surety bond must be sufficient to ensure that all of the corporation's facilities are covered against any losses due to acts or errors by the corporation, its agents, or any

of its facilities. The intent is to ensure that if a corporation were to go bankrupt or otherwise cease to operate, the funds of the residents in the corporation's facilities would be protected.

- O. If a resident is incapable of managing personal funds and has no representative, the ICF/IID must refer the patient to the local office of the Social Security Administration (SSA) and request that a representative payee be appointed.
 - 1. In the time period between notification to the appropriate agencies, institution of formal guardianship proceedings, and notification to the local SSA and the actual appointment of a guardian or representative payee, the ICF/IID must serve as temporary representative payee for the resident.
 - 2. In order to safeguard and maintain an accurate accounting of the resident's account, funds received on behalf of the resident must initially be deposited in the trust fund account before they can be disbursed for any expenses. A resident's monthly income source cannot be commingled with ICF/IID funds prior to those funds being transferred to the trust account.
- P. The ICF/IID must maintain a current, written record for each resident that includes written receipt for all personal possessions deposited with the ICF/IID by the resident. The property record must be available to the resident.
- Q. The ICF/IID must notify each resident receiving medical assistance under Title XIX, Medicaid, when the amount in the resident's account reaches two hundred dollars (\$200.00) less than the supplemental security income (SSI) resource limit and five hundred dollars (\$500.00) less than the Medicaid resource limit to remain eligible for Medicaid long-term care benefits.
 - 1. The notice must include the fact that if the amount in the account, in addition to the value of the resident's other non-exempt resources, reaches the applicable resource limits; the resident may lose eligibility for such medical assistance or SSI.
 - 2. The ICF/IID must issue written notification to the Medicaid Regional Office of any resident receiving medical assistance under Title XIX when the resident's account balance reaches the applicable resource limit.
- R. The Division of Medicaid defines:
 - 1. The basic rate as the standard or per diem rate Medicaid pays the ICF/IID per Medicaid resident per day, as established periodically from cost reports. The basic rate is important in the discussion of resident personal funds in that items and services included in the rate cannot be charged to a resident; the resident must be informed, in writing at the time of admission, of the items and services provided by the ICF/IID as well as the items and services not included in the basic rate; and the amount of such charges that may be charged to the resident.

2. The book balance as the total balance of all resident personal funds and petty cash held according to the accounting ledger.
3. Census as the total number of residents in an ICF/IID.
4. Compliance with The Omnibus Budget Reconciliation Act (OBRA) of 1987 as requiring an ICF/IID to establish and maintain a system that fully and completely accounts for the resident's personal funds managed by the provider.
5. Exception as any item or area selected for review that does not meet the regulatory standards. Finding and exception are used interchangeably for resident trust fund review purposes.
6. Fiduciary as having rights and powers normally belonging to another person that must be exercised with a high standard of care for the benefit of the beneficiary. Regarding resident personal funds, a party who is entrusted to conduct the financial affairs of another person is acting in a fiduciary or trust capacity and has responsibility to use due care and to act in the best interests of the party for whom he is acting in this capacity. A party acting in a fiduciary capacity is also responsible to give an accounting of all transactions made on behalf of the party for whom he is acting.
7. Fiscal Agent as the agency under contract with the Division of Medicaid for the purpose of disbursing funds to providers of services under the Medicaid program. The fiscal agent collects eligibility and payment information from agencies administering Medicaid and processes the information for payment to providers.
8. Generally Accepted Accounting Principles (GAAP) as guidelines for proper accounting practices codified by the Financial Accounting Standards Board which includes proper bookkeeping techniques by which the ICF/IID can determine, upon request, all deposits and withdrawals for each resident, how much interest these funds have earned for each resident and the amount of each individual resident's fund balance.
9. Intestate as without a valid will at the time of death.
10. Legal guardian, legal representative, or conservator as a person(s) appointed by the court of jurisdiction to manage the resident's income and assets in the best interest of the resident. The court may require a court order prior to disbursements of the resident's personal funds, and/or a periodic accounting to the court to document income and disbursements. A legal guardian, legal representative or conservator must supply documentation to the ICF/IID for disbursements from the resident fund, just as any other responsible party for any other resident.
11. Medicaid income as the maximum liability that the resident owes to the ICF/IID each month for room and board.

12. Medically necessary items and services as those items and services that are documented by the attending physician or medical personnel delegated by the attending physician as reasonable and necessary. If a resident's personal funds are expended for an item or service covered in the ICF/IID's basic rate, evidence must be in the resident's file to verify that the item or service is not medically necessary and therefore justifiable as an expenditure of the resident's personal funds.
13. Obligee as the residents of the trust fund, the party to whom the ICF/IID is legally or morally bound. The obligee is the beneficiary of funds, collected in the event of the failure of the ICF/IID to hold, safeguard, manage, and account for the residents' personal funds.
14. Per Diem Rate - Refer to Miss. Admin. Code Part 207, Rule 3.8.R.1.
15. Personal needs allowance (PNA) as the amount of funds a resident is allowed to keep after room and board liability, supplemental health insurance premiums, and allowable minimum monthly needs allowances are deducted from the resident's gross income.
16. Plan of Correction as an acceptable plan that must address each exception noted in the findings letter and include the following:
 - a) Documentation that the exception has been corrected,
 - b) Measures that have been put in place to ensure that the exception will not be repeated, and
 - c) Measures that have been put in place to monitor the continued effectiveness of the changes.
17. Reconciliation as at all times, the total of the residents' personal funds held, as noted from the bank's current statement of the balance and any cash held at the ICF/IID, equaling the total of the resident's personal funds as noted from the ICF/IID's accounting ledger for all residents participating in the resident trust fund. Any difference between the two (2) totals must be accounted for by documented outstanding credits and debits or documented reconciling items such as unposted current interest, unposted petty cash vouchers, or corrections.
18. Representative payee as someone designated by the resident to receive and manage their Social Security, Veterans Administration, Railroad Board, or other federal or state benefits. An ICF/IID must be willing to be designated as a temporary representative payee if no guardian or legal representative is available to represent the resident.
19. Resident's personal funds as all of a resident's money on deposit with the facility, including all of the resident's personal funds, regardless of the source.

20. Resource limit as the maximum amount of assets a resident may have in order to qualify for Medicaid services. For trust fund review purposes, the Supplemental Security Income (SSI) resource limit and the Medicaid resource limit are the two resource limits to be considered.
21. Trust Fund Authorization as the documentation the resident and/or guardian or legal representative signs appointing an individual to assist the resident in managing his/her personal funds maintained within the resident trust fund account. Any withdrawal of funds by this appointed individual must be for the benefit of the resident, must be signed for, and supported by appropriate documentation such as a receipt or invoice.
22. State institutions as facilities owned and operated by the State.
23. Testate as having a valid will at the time of death.
24. Trial balance as a listing of all residents participating in the resident personal fund account with the balance of each resident's personal fund.
25. Written authorization as authorization to establish a resident personal fund in the form of a written statement signed by the resident and/or guardian or legal representative. In addition, authorization to perform a specific funds transaction for the resident must be in writing and/or documented with a receipt of purchase.

Source: 42 U.S.C. § 1396r; 42 C.F.R. §§ 431.53, 447.15, 483.420; Miss. Code Ann. §§ 43-13-120, 43-13-121.

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