



## **Nursing Home Resident Right: Finances**

Federal and New York State law provides nursing home residents have the right:<sup>1</sup>

- To manage his/her financial affairs and choose to deposit funds with the facility;
- To receive quarterly statements of his/her account (and upon request) for funds deposited with the facility; and
- Have ready access to their funds that are deposited with the facility.

### **Right to Manage his/her Financial Affairs**

Every resident has the right to manage his/her financial affairs. If a resident chooses to deposit personal funds with the facility, the facility must act as a fiduciary of the resident's funds and hold, safeguard, manage, and account for the personal funds deposited by the resident with the facility.

- The facility must maintain a resident's personal funds that do not exceed \$100 in a non-interest bearing account, interest-bearing account, or petty cash fund.
- Funds in excess of \$100 must be placed in an interest-bearing account that is separate from any of the facility's operating accounts.
- The facility must not require residents to deposit their personal funds with the facility.

### **Accounting and Records**

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

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<sup>1</sup> Legal requirements are found under federal and state regulation, 42 CFR 483.10(f)(10) and 10 NYCRR 415.3(g), and can be accessed at: [https://www.ecfr.gov/cgi-bin/text-idx?SID=3fe91db527951e887a989f5b8419360d&mc=true&node=se42.5.483\\_110&rgn=div8](https://www.ecfr.gov/cgi-bin/text-idx?SID=3fe91db527951e887a989f5b8419360d&mc=true&node=se42.5.483_110&rgn=div8) ; and [https://govt.westlaw.com/nycrr/Document/I4fe56b20cd1711dda432a117e6e0f345?viewType=FullText&originatio nContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Document/I4fe56b20cd1711dda432a117e6e0f345?viewType=FullText&originatio nContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

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- Individual financial records must be available to the resident through quarterly statements and upon request.

### Ready Access to Funds<sup>2</sup>

Residents should have access to petty cash on an ongoing basis and be able to arrange for access to larger funds. Although the facility need not maintain \$100 (\$50 for Medicaid residents) per resident on premises, it is expected to maintain petty cash on hand to honor resident requests.

### Common Questions

Q. Can a resident access his/her funds at night or on the weekends?

A. Yes. The law requires that if the resident chooses to deposit funds at the facility, the facility is responsible to hold, safeguard, manage, and account for the residents' personal funds that are deposited. The facility is required to maintain petty cash on hand to honor resident requests regardless of day or time. This includes evenings and weekends.

Q. How often should a resident receive a statement of his/her personal funds deposited with the facility?

A. Quarterly statements must be provided in writing and to the resident (or resident's representative) within 30 days after the end of the quarter, and upon request.

Q. What should be in the resident's personal statement?

A. As the fiduciary of the resident's personal funds, the facility is required to abide by generally accepted accounting principles, which includes proper bookkeeping techniques, by which it can determine, upon request, the amount of individual resident funds, and in the case of an interest-bearing account, how much interest these funds have earned for each resident, as last reported by the banking institution to the facility.

Individual resident record should include:

- Only transactions involving that resident's personal funds.
- Information on when transactions occurred, what they were, and maintain the ongoing balance for every resident.

A receipt must be given to the resident for each transaction and the facility must retain a copy.

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<sup>2</sup> CMS Guidance to Surveyors for Long Term Care Facilities "Appendix PP", can be accessed at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/GuidanceforLawsAndRegulations/Nursing-Homes.html> . Specific surveyor guidance found on pdf page 33/702.

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