**Section 110.20 Handling of recipient's personal property other than clothing**

a) Definitions

 For purposes of this Section, the following terms are defined:

 "Code." The Mental Health and Developmental Disabilities Code [405 ILCS 5].

 "Informed consent." Permission voluntarily granted by the recipient or properly empowered guardian for the release of information, for participation in the program services specified in the treatment plan, for the use of a specific procedure in the plan, or for designating the facility director as representative payee. Informed consent means full disclosure to the recipient or properly empowered guardian of the information required for him or her to make the decision intelligently.

 "Properly empowered guardian." A court-appointed guardian of the person with specific authority to make decisions concerning the recipient's financial transactions or a court-appointed guardian of the estate.

b) Introduction

1) When a recipient is admitted to a Department facility such recipient or the recipient's properly empowered guardian may authorize the facility to establish a trust fund account in accordance with Section 20 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/20], using form DMHDD-623, Trust Fund Deposit Authorization. Any monetary assets in the recipient's possession at the time of admission may be deposited in such an account. The recipient shall be advised that:

A) He or she may retain money and deposit it in a financial institution or use it as he or she chooses, unless he or she is a minor or is prohibited from doing so under a court guardianship order, in accordance with Section 2-105 of the Code.

B) He or she may revoke the authorization for the trust fund account, using form DMHDD-623c, Revocation of Authorization.

C) Any funds deposited in the trust fund shall earn interest based on the end of the month balance and if funds are withdrawn prior to the end of the month, no interest will be paid for the period.

2) Accounting records shall provide separate entries for those funds (checks) made payable to the recipient and those funds (such as checks from the Social Security Administration, Railroad Retirement or the Veterans' Administration) made payable to the facility director on behalf of the recipient. Only qualified clinical personnel at the facility can make statements or answer questions on applications for facility directors to be selected as payee of these benefits which relate to the recipient's ability to manage his or her own funds.

3) Except when a recipient or the properly empowered guardian has given informed consent, no service provider nor any of its employees shall be made representative payee for the recipient's Social Security pension, annuity, trust fund, or any other form of direct payment or assistance, as provided by Section 2-105 of the Code. When a facility director is selected as representative payee, benefit checks are credited to the recipient's trust fund account. An amount of $40.00 or the amount which is allowed by the funder shall be set aside for the recipient's personal needs prior to establishing services charges.

4) The allowable reserve exemption, as provided for in Section 5-106 of the Code, is equal to the amount of assets a recipient owns at the time of admission and shall not be used for services charges. The allowable reserve exemption from all sources cannot exceed that established by the Illinois Department of Public Aid at 89 Ill. Adm. Code 120.382. The recipient's allowable reserve exemption can only be increased by the unused portions of the monthly personal clothing allowance (as defined in subsection (b)(3) of this Section) or unspent workshop or other monetary incentive funds such as living skills program funds. Amounts exceeding those allocated for the recipient's personal use are applied to the services charges of the recipient. Payments to be paid by the recipient for services charges may not be deferred to build a reserve up to the maximum amount allowed. The reserve fund can be used by the recipient in support of discharge planning, or other needs as determined by the recipient or properly empowered guardian, or in the case of a recipient still hospitalized at the time of death, for burial.

5) Recipients who are not legally disabled with trust funds shall be asked to sign form DMHDD-623, Trust Fund Deposit Authorization. Properly empowered guardians must sign for legally disabled recipients.

6) The facility resource unit shall be notified immediately whenever any recipient or properly empowered guardian refuses to sign form DMHDD-623. If the recipient or properly empowered guardian does not sign form DMHDD-623, no funds from the recipient's trust fund made payable to the recipient may be used to defray services charges without a court order. Recipients who are not legally disabled whose funds are payable to themselves shall be billed for services charges and collection shall proceed as provided by Section 5-113 of the Code and the Department's rules at 59 Ill. Adm. Code 106.

7) When a recipient is admitted to the Department facility, all personal property shall be deposited in the business office for safekeeping if authorized by the recipient or properly empowered guardian.

8) Bank vault keys shall not be released to any person other than the recipient or properly empowered guardian submitting a certified copy of his or her appointment. If a person other than a properly empowered guardian has obtained a court order for the release of bank vault keys and presents this order to the facility director, the facility resource unit shall be immediately notified so that an employee may be present at the opening of the vault. The business manager shall report any pass books which come into his or her possession to the facility resource unit immediately upon possession or as soon thereafter as possible and shall retain these books in the personal property files.

c) Discharge

 For those recipients who have received Social Security benefits, the facility director or designee must notify the Social Security Administration within 10 working days after these recipients are discharged.

1) Recipients who are not legally disabled (including veterans)

A) Authorization must be secured in writing to expend monies or release property of recipients who are not legally disabled for any purpose, including services charges, except when the facility director has been named payee by the Social Security Administration or Railroad Retirement Board, or legal custodian by the Veterans' Administration. The facility director's authority to disburse funds from the trust fund without the recipient's or the recipient's properly empowered guardian's authorization shall be limited to those funds made payable to the facility director as a payee or agent of the recipient.

B) When discharge plans have been made, the facility director shall designate an employee to discuss with the recipient or the recipient's properly empowered guardian the disposition of monies remaining in the trust fund account. The discussion should include the following information:

i) The recipient applying for or approved for assistance from the Department of Public Aid is subject to the rules of that agency depending on the amount of assets owned at the time of the recipient's admission.

ii) The recipient may take his or her funds with him or her to the place where the recipient will be living, or may arrange for an alternative disposition of all or part of his or her money such as savings accounts, checking accounts, or purchase of United States savings bonds. The facility director shall comply with the recipient's or the recipient's properly empowered guardian's wishes regarding the disposition of his or her funds other than those made payable to the facility director on the recipient's behalf.

iii) If there are amounts due for services charges, the recipient or the recipient's properly empowered guardian can, at this time, authorize the release of funds for payment and, if payment from the trust fund is not authorized toward services charges due, that the recipient will be billed and will be subject to collection procedures in accordance with Section 5-113 of the Code.

iv) Eligibility of the recipient for programs administered by the Department of Public Aid when applicable.

v) The amount of money appropriate for a person placed in a long-term care facility as defined by the Nursing Home Care Act [210 ILCS 45] or placed in a community-integrated living arrangement as defined by Section 3(d) of the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135] and discussion of how best to handle that sum and any excess (see subsection (c)(1)(B)(ii) of this Section).

2) Legally disabled veterans and veterans' legally disabled beneficiaries (funds received from the Veterans' Administration)

 An amount not to exceed that allowed by the Veteran's Administration (38 U.S.C. 521, 541 and 542 (1996)) may be released to the recipient, responsible relative, or properly empowered guardian pending receipt of instructions from the Veterans' Administration by the facility regarding the trust fund balance of funds received from the Veterans' Administration. A copy of instructions received from the Veterans' Administration shall be sent to the facility resource unit.

3) Legally disabled recipients

A) If there is a court-appointed properly empowered guardian, the properly empowered guardian shall be notified regarding the trust fund balance and unpaid services charges and instructions shall be secured from him or her. In such cases, any assets or personal effects released to the properly empowered guardian, the date of discharge and amount of money or list of effects released, and the date of release shall be immediately reported to the facility resource unit.

B) If there is no properly empowered guardian, the funding source shall be notified of the imminent discharge of the recipient with a request that the funding source name an appropriate representative payee. If the recipient is not eligible for public assistance, an attempt shall be made to restore him or her to non-legally disabled status in the local court. If the facility believes that the recipient is non-restorable and that the recipient has more than $1000.00 in his or her trust fund, the facility director or his or her designee shall contact the Office of Legal Counsel for assistance in appointing a properly empowered guardian. The facility resource unit shall be notified when any legally disabled recipient is to be discharged.

C) When the recipient is discharged, the facility director shall advise the facility resource unit regarding the remaining balance in the trust fund account, source of funds, and other pertinent details such as disbursement restrictions, discharge needs, and location of bank accounts.

d) Death

1) The facility director may authorize the arrangements for the burial of a recipient and the necessary expenses connected with such burial up to $1,500.00. This includes burial amounts received from the Veterans' Administration, the Social Security Administration, the value of cemetery lots, and prepaid burial expenses. Burial of recipients receiving or qualifying for medical assistance shall be governed by the regulations of the Department of Public Aid. Plans for burial shall be arranged by a staff member designated by the facility director. Payments to funeral directors shall be made only on receipt of itemized statements and only for the amount authorized.

2) Facility staff shall determine if the recipient was insured, and shall report the amount of the policy, name of the beneficiary, name of the insurance company, and policy number or numbers to the facility resource unit.

3) Upon receipt of a certified copy of Letters of Administration, Letters Testamentary or a properly executed Small Estates Affidavit, disbursement shall be made of the trust fund balances. Information regarding release of such funds shall be reported immediately to the facility resource unit.

4) Lump-sum benefits

A) Recipients of Social Security benefits who have wage records are entitled to lump-sum benefits for burial of three times the amount of the monthly benefit, except that the maximum lump-sum payment shall not exceed $255.00.

B) Relatives shall be advised of any lump-sum entitlement and shall be informed that they should make their own arrangements for the recipient's burial, and that they should request payment of the lump-sum benefit directly from the Social Security Administration. If the trust fund accumulation is used for burial, the facility director shall make a claim to the Social Security Administration for the lump-sum benefit as trustee of the recipient's funds. The Social Security Administration will also reimburse the facility if the funeral expense is paid from a General Revenue Fund appropriation. The amount of the lump-sum death benefit shall be reported to the facility resource unit when received. When full charges for services have not been satisfied, billing shall be issued for any unpaid amount taking into account the balance in the trust fund. When balances are reported to the Social Security Administration the amount of unpaid services charges should also be reported.

5) If the recipient's estate is not admitted to Probate, the facility resource unit shall issue billing against the trust fund account of the decedent for any balance remaining, up to the amount of unpaid balance, based on the maximum per capita services charges (59 Ill. Adm. Code 106.25).

e) Discharge to community placement

 In determining charges for the services of a recipient to be placed in the community placement program, consideration shall be given to the recipient's immediate needs and his or her eligibility for public assistance. A report shall be made for all recipients placed in the community placement program on form DMHDD-403c, Financial Questionnaire, to the Contracts, Grants, and Procurement Section (aftercare service). If there is a trust fund balance, a copy of form DMHDD-403c, shall be sent to the facility resource unit. Recipients to be discharged and placed in nursing homes or sheltered-care homes may have the reserve fund from the trust fund used to pay for their care in the home if they are otherwise eligible for public assistance, except that the sum in the trust fund plus other liquid assets cannot exceed the amount set forth in Department of Public Aid rules at 89 Ill. Adm. 120.382. Money from the trust fund may be so used only to the extent permitted by the Department of Public Aid to enable the recipient to receive public assistance on discharge from the facility.

f) General

1) All trust fund balances for discharged recipients shall be reported to the facility resource unit and shall show the net balance available for use in establishing charges for services. Facility claims for clothing shall be deducted before reporting this balance. Money credited on commissary cards shall be included in the balance.

2) All trust fund balances for deceased recipients shall be reported to the facility resource unit and shall show in detail all burial and death benefits.

3) Facilities shall not remit funds to pay services charges until receipt of an official billing statement. Funds may be remitted to pay services charges from recipient trust funds only if the recipient or the recipient's properly empowered guardian, has consented or the funds remitted represent funds made payable to the facility director.

(Source: Amended at 15 Ill. Reg. 14435, effective October 1, 1991)