**Section 330.4260 Resident's Funds**

a) *A resident shall be permitted to manage his own financial affairs unless he or his guardian or if the resident is a minor, his parent, authorizes the administrator of the facility in writing to manage such resident's financial affairs under* subsections (b) through (o) of this Section. (Section 2-102 of the Act)

b) *The facility shall at the time of admission, provide, in order of priority, each resident, or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any, with a written statement explaining* *to the resident and the resident's spouse their spousal impoverishment rights as defined at Section 5-4 of the Illinois Public Aid Code, and at Section 303 of Title III of the Medicare Catastrophic Coverage Act of 1988 (P.L. 100-360), and* *the resident's rights regarding personal funds and listing the services for which the resident will be charged. The facility shall* *obtain a signed acknowledgement from each resident or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any, that such person has received the statement.* (Section 2-201(1) of the Act)

c) *The facility may accept funds from a resident for safekeeping and managing, if it receives written authorization from, in order of priority, the resident or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any; such authorization shall be attested to by a witness who has no pecuniary interest in the facility or its operations, and who is not connected in any way to facility personnel or the administrator in any manner whatsoever.* (Section 2-201(2) of the Act)

d) *The facility shall maintain and allow, in order of priority, each resident or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any, access to a written record of all financial arrangements and transactions involving the individual resident's funds.* (Section 2-201(3) of the Act)

e) *The facility shall provide, in order of priority, each resident, or the resident's guardian, if any, or the resident's representative, if any, or the resident's immediate family member, if any, with a written itemized statement at least quarterly, of all financial transactions involving the resident's funds.* (Section 2-201(4) of the Act)

f) *The facility shall purchase a surety bond, or otherwise provide assurance satisfactory to the Departments of Public Health and Insurance that all residents' personal funds deposited with the facility are secure against loss, theft, and insolvency*. (Section 2-201(5) of the Act)

1) If a surety bond is secured, it must be issued by a company licensed to do business in Illinois, the amount of bond must be equal to or greater than all resident funds managed by the facility, and the obligee named in the bond must be the Illinois Department of Public Health or its assignees.

2) If an alternative to a surety bond is secured, the alternative must provide a protection equivalent to that afforded by a surety bond. To be acceptable, the alternative must have a person(s) or entity(ies) designated who can collect in case of loss (e.g., residents, the Department). The alternative must also provide a guarantee that lost funds will be repaid. The guarantee may be made either by an independent entity (e.g., a bank) or the facility. If the facility provides the guarantee, it must be backed by facility money at least equal to resident funds. This money must be reserved solely for the purpose of assuring the security of resident funds. Two examples of acceptable alternatives to surety bonds are letters of credit and self-insurance. Both surety bonds and alternatives must protect the full amount of residents' funds deposited with the facility.

3) Any alternative to a surety bond shall be submitted to the Department for review and approval. Alternatives that meet the requirements of this Section and were in place prior to October 1, 1994, must be submitted to the Department for review and approval within 120 days after October 1, 1994.

g) *The facility shall keep any funds received from a resident for safekeeping in an account separate from the facility's funds, and shall at no time withdraw any part or all of such funds for any purpose other than to return the funds to the resident upon the request of the resident or any other person entitled to make such request, to pay the resident his allowance, or to make any other payment authorized by the resident or any other person entitled to make such authorization.* (Section 2-201(6) of the Act)

h) *The facility shall deposit any funds received from a resident in excess of $100 in an interest bearing account insured by agencies of, or corporations chartered by, the State or federal government. The account shall be in a form which clearly indicates that the facility has only a fiduciary interest in the funds and any interest from the account shall accrue to the resident.* (Section 2-201(7) of the Act)

i) *The facility may keep up to $100 of a resident's money in a noninterest bearing account or petty cash fund, to be readily available for the resident's current expenditures.* (Section 2-201(7) of the Act)

j) *The facility shall return to the resident, or the person who executed the written authorization required in subsection (c) of this Section, upon written request, all or any part of the resident's funds given the facility for safekeeping, including the interest accrued from deposits.* (Section 2-201(8) of the Act)

k) *The facility shall place any monthly allowance to which a resident is entitled in that resident's personal account, or give it to the resident, unless the facility has written authorization from the resident or the resident's guardian, or if the resident is a minor, his parent, to handle it differently.* (Section 2-201(9) of the Act)

l) *Unless otherwise provided by State law, the facility shall upon the death of a resident provide the executor or administrator of the resident's estate with a complete accounting of all the resident's personal property, including any funds of the resident being held by the facility.* (Section 2-201(10) of the Act)

m) *If an adult resident is incapable of managing his funds and does not have a resident's representative, guardian, or an immediate family member the facility shall notify the Office of the State Guardian of the Guardianship and Advocacy Commission.* (Section 2-201(11) of the Act)

n) *If the facility is sold, the seller shall provide the buyer with a written verification by a public accountant of all residents' monies and properties being transferred, and obtain a signed receipt from the new owner.* (Section 2-201(12) of the Act)

o) *The facility shall take all steps necessary to ensure that a personal needs allowance that is placed in a resident's personal account is used exclusively by the resident or for the benefit of the resident. Where such funds are withdrawn from the resident's personal account by any person other than the resident, the facility shall require such person to whom funds constituting any part of a resident's personal needs allowance are released to execute an affidavit that such funds shall be used exclusively for the benefit of the resident.* (Section 2-201(9)(b) of the Act) "Personal needs allowance," for the purposes of this subsection, refers to the monthly allowance allotted by the Illinois Department of Public Aid to public aid recipients.

(Source: Amended at 18 Ill. Reg. 15851, effective October 15, 1994)