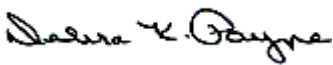
 <p>POLICIES AND PROCEDURES</p> <p>State of Tennessee Department of Intellectual and Developmental Disabilities</p>	Policy #: 80.4.3	Page 1 of 15
	Effective Date: December 14, 2016	
	Distribution: B	
Policy Type: Waiver/Community	Supersedes: 80.4.3 (9/17/12)	
Approved by:  Debra K. Payne, Commissioner	Last Review or Revision: October 25, 2016	
Subject: PERSONAL FUNDS MANAGEMENT		

- I. **AUTHORITY:** Tennessee Code Annotated (TCA) Section 4-3-2708, TCA 33-1-302, TCA 33-1-303, TCA 71-4-804; Code of Federal Regulations Title 20, Chapter III, Part 416; HCBS waiver(s) and related regulations, and regulations of the Tennessee Bureau of TennCare.

- II. **PURPOSE:** This policy provides clarification regarding the management of personal funds for persons enrolled in one of the Home and Community Based Services (HCBS) waivers for individuals with intellectual disabilities that are administered by the Department of Intellectual and Developmental Disabilities (DIDD).

- III. **APPLICATION:** This policy is applicable to HCBS waiver providers who have responsibility for personal funds management for persons enrolled in one of the HCBS waivers for individuals with intellectual disabilities.

- IV. **DEFINITIONS:**
 - A. **Earned Income** shall mean income derived from active participation in a trade or business, including wages, salary, tips, commissions and bonuses.

 - B. **HCBS Waiver or Waiver** shall mean a waiver approved for Tennessee by the Centers for Medicare and Medicaid Services (CMS) to provide services to a specified number of Medicaid eligible individuals who have an intellectual disability and who meet Medicaid criteria for reimbursement in an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID). The HCBS waivers for individuals with intellectual disabilities in Tennessee are operated by the DIDD with oversight from TennCare, the state Medicaid agency.

 - C. **Office Space** shall mean a room or significant portion of a room in the person's residence which has been designated for staff use and is not consistently accessible to the person supported. The presence of a computer, telephone, fax, or other home office equipment in the residence shall not constitute an office space if the person supported is allowed unrestricted access to the area of the home where such is located and has use of the area and the equipment.

 - D. **Personal Allowance** shall mean cash which belongs to the person supported and is kept in the person's residence, intended for the person's purchase of personal items

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of his/her choice such as grooming supplies, entertainment equipment, leisure activities, and refreshments during community activities.

- E. **Personal Funds** shall mean financial resources, including earned and unearned income, which is used to pay for a person's personal expenses.
 - F. **Personal Funds Ledger** shall mean an individualized record summarizing financial information (e.g. debits) for a person supported.
 - G. **Representative Payee** shall mean an individual or organization that receives Social Security and/or Supplemental Security Income (SSI) payments for a person supported who requires assistance with the management of their personal funds.
 - H. **Unearned Income** shall mean all income which is not earned through employment (e.g., interest from savings accounts or bonds, dividends, gifts and inheritances, rents, Social Security benefits, Railroad Retirement benefits, workers' compensation or unemployment compensation).
 - I. **Personal Funds Management** shall mean the oversight and management of any and all earned or unearned income that a provider representative payee (or staff of a provider that is not the representative payee) receives on behalf of the person supported.
- V. **POLICY:** This policy is intended to ensure that personal funds are appropriately managed in the best interest of persons supported and that providers are held accountable for such management.
- VI. **PROCEDURES:**
- A. Individual Support Plan
 - 1. The Individual Support Plan (ISP) shall address the following:
 - a. The person's capabilities and desires regarding personal funds management. Personal funds management via a representative payee is based on an assessed need. If the person supported desires to manage his/her funds independently then he/she will be supported to achieve this goal.
 - b. The extent to which personal funds will be managed by the provider agency or the conservator.
 - c. The person's desire, if applicable, to have a separate bank account rather than an agency-controlled account for personal funds.

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- d. The person's desire, if applicable, to have a joint bank account and share expenses with the person's spouse.
 - e. Any training or assistance needed to support the person supported in managing personal funds or to develop skills needed to increase independence with managing personal funds.
 - f. Outcomes or action steps involving use of the person's personal funds.
 - g. Any health, safety or exploitation issues that require limitations on the person's access to personal funds and strategies to remove limitations at the earliest possible time.
2. The Independent Support Coordinator (ISC) or Case Manager shall provide assistance with identifying and accessing providers of services specified in the ISP and arranging those services to ensure that the person's funds will not be spent when there is another payer source responsible (e.g., private insurance, Medicare).
 3. Providers shall notify the ISC or Case Manager of changes in the person's personal funds that would require a revision of the ISP, or that would affect implementation of actions required to meet the goals and objectives specified in the ISP.

B. Parties Responsible for Personal Funds Management

1. Person
 - a. Persons supported shall be supported, as needed and in the manner requested, to manage their own personal funds.
 - b. Persons supported who desire greater involvement in the management of their personal funds but lack the necessary skills shall be provided appropriate personal funds management training in accordance with their ISP.
 - c. Persons supported who are unable to manage their personal funds may choose another person to act on their behalf (e.g., person supported receiving Social Security may complete forms to designate a "Representative Payee").

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2. Representative Payee

- a. For a person supported who has been declared incompetent for purposes of money management the legal guardian or conservator shall be given the choice to manage the person's personal funds or to choose a person or entity to act on the person's behalf in managing such.
- b. When a provider is chosen, the provider shall not require a person supported to designate their agency as the Representative Payee for any reason, including requiring such designation as a condition in order to provide services to the person supported.

3. Provider Representative Payees

A provider who serves as the representative payee for a person supported shall abide by the following guidelines.

- a. Providers selected as Representative Payees shall not charge the person supported a fee for funds management unless the provider is specifically authorized to do so by the Social Security Administration (SSA). To be so authorized, the provider must be approved by the SSA as an Organizational Representative Payee. A provider who has Organizational Representative Payee status is subject to additional, more restrictive, federal requirements and enforcement of same by the SSA.¹
- b. When a provider is chosen to act as the Representative Payee the name of the legal guardian or conservator and the circumstances of the appointment shall be noted on the Social Security Administration application form (Form SSA-11, page 1, item 5) in order for the guardian or conservator to be contacted if necessary.
- c. The provider Representative Payee shall monitor the person's income, expenses and resources, and shall maintain receipts to ensure that the person's money is used first to meet the person's current needs for food, shelter, clothing and medical care not

¹ <https://www.ssa.gov/payee>.

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covered by TennCare/Medicaid, Medicare, or private insurance and other items for the person's personal comfort.

- d. The provider Representative Payee shall ensure that all money held, disbursed, advanced or paid by the provider on behalf of the person supported is for the person's personal use, benefit or expenses and not for the provider's own use or gain.
- e. The provider Representative Payee shall have written policies regarding how personal funds will be maintained and safeguarded, including limitations on staff access to these funds.
- f. The provider Representative Payee shall manage personal funds in accordance with accepted accounting practices.
- g. The provider Representative Payee shall ensure that individual personal allowances kept in the person's home are maintained separately and are not treated as household petty cash. If a single locked box is used, the personal allowances must be kept in separate labeled envelopes within the box.
- h. The provider Representative Payee shall ensure that records are kept for each person supported, including:
 - i. Beginning and ending balances for each month.
 - ii. Documentation of money given to the person supported for personal spending.
 - iii. A description of any expenditures (with supporting receipts for expenditures of \$10.00 or more for purchases made by provider staff on behalf of the person supported).
 - iv. Maintenance of the person's bank account; documentation of monthly reconciliation of bank statements, ATM and debit transactions, checks, deposits, to prevent negative bank balances.
 - v. Maintenance of a separate bank account for all income for a person supported, if such is specified in the ISP.
 - vi. Maintenance of a separate joint bank account for all income for two persons- supported who are legally married or cohabiting, if such is specified in their ISPs.

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- vii. Documentation that insurance policies (e.g., burial, life, etc.) purchased with the person's funds is for the sole benefit of the person's beneficiaries.
 - viii. The face value amount and name of the owner and the beneficiary of any life or burial insurance policies.
- i. The provider Representative Payee shall provide an annual report to the person supported or the person's conservator or legal representative of the person's personal funds being held and disbursed by the provider.
- j. The provider Representative Payee shall update personal fund ledgers in a timely manner (i.e., on the day of the occurrence or the following morning) to indicate funds provided to the person supported by others, including dated signatures of the individuals who supplied the funds.
- k. The provider Representative Payee shall develop and implement adequate accounting procedures for each person's personal funds to assure consistent availability of current information involving:
 - i. The amount of financial resources available to each person supported for basic living expenses and for personal spending.
 - ii. The total amount of each person's countable assets. When the maximum resource limit is reached by a Medicaid funded person supported, this must be reported to TennCare. In accordance with the Tennessee ABLE Act², up to \$14,000 may be deposited annually to the person's ABLE account. The lifetime account limit is \$350,000 per person.
 - iii. Documentation (e.g., receipts, monthly billings, checkbook ledgers) of expenditures made on behalf of the person supported, including justification that the purchase was appropriate and in accordance with the person's needs.
- l. In the event of the person's death, the provider Representative Payee shall contact the local Social Security Office for guidance regarding disposition of the person's assets.

² ABLE TN: <http://www.abletn.gov/>

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C. Personal Allowance Guidelines for Provider Representative Payees

1. It is presumed that the person supported has the ability to manage their money for personal spending without the need for staff assistance. The amount of money received by the person supported, including any requirements and/or limitations regarding personal spending, shall be specified in the ISP.
 - a. When the person supported chooses to receive money to be used for personal spending they shall sign for the money upon receipt. However, neither the person supported nor provider agency will be required to obtain receipts for individual items purchased.
 - b. The provider must maintain documentation of the person's acceptance of the money. Such documentation must be available for review during surveys or audits and must specify the amount of money received by the person supported, the date received, and must include the person's signature or mark.
 - c. The person's signature or mark on the back of a check will not be considered sufficient documentation for auditing purposes.
2. When managing personal allowances for people requiring supports to manage personal funds the provider shall:
 - a. Provide appropriate training to their direct support staff and other staff involved in the management of the person's personal allowances in accordance with the requirements as set forth in this policy.
 - b. Support as applicable, persons supported to manage their personal allowances in accordance with their approved ISP.
 - c. Provide training to persons supported, as appropriate, to help manage their personal allowances.
 - d. Ensure that persons supported have access to their personal allowances at all times, unless access limitations have been specified in the ISP.

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- e. The person's checkbook/ATM/debit card does not have to be maintained in the person's home unless so requested by the person supported or the legal guardian or conservator. If the checkbook/ATM/debit card is not maintained in the home, the provider shall ensure that the person supported can access their allowance at all times.
- f. Ensure that personal allowances are used for purchases that are needed or desired by the person supported and that they are not allowed to accumulate when there is unmet need.
- g. When the person desires to save money the person will be supported towards this goal.
- h. Monitor the accumulation of personal allowances to prevent the loss of benefits (e.g., SSI or Medicaid eligibility) due to excessive accumulation.
- i. Maintain receipts for all expenditures of \$10.00 or more for purchases made by provider staff using the person's personal allowance.
- j. Receipts shall not be required for expenditures of less than \$10.00 for routine recreational activities such as movie tickets and refreshments or arcade change.
- k. If personal allowances are used for group purchases, each person supported should be charged a prorated amount consistent with usage or consumption:
 - i. For group purchases (e.g., a pizza shared by 3 people), the provider may divide the total cost equally among the purchasing parties.
 - ii. Receipts must be maintained for group purchases of \$15.00 or more.
- l. Maintain a separate record for each person's personal allowance;
- m. Reconcile all personal allowance accounts monthly; and
- n. Personal allowance ledgers shall be updated in a timely manner to indicate funds provided to the person supported by others, including dated signatures of the individuals who supplied the funds.

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D. Advancement of Funds

1. A provider who serves as the Representative Payee for a person supported shall have written policies and procedures regarding advancement of funds on behalf of persons supported.
2. Providers have the option of not advancing funds to the person supported.
3. Provider Representative Payees may not charge the person supported interest on the advancement of funds (e.g., loans).
4. When a person's expenses exceed funds available during a month and the provider agrees to pay these costs and expects repayment, there must be a signed written agreement between the provider and the person supported which describes:
 - a. The expenditure and the reason for it;
 - b. The amount paid by the provider for the benefit of the person-supported; and,
 - c. The repayment plan.

A signed written agreement must be in place for any debt the provider expects to be repaid.

5. If the person supported is not competent to enter into the agreement with the provider, there must be a signed written agreement between the provider and the person's conservator or legal representative, if applicable, describing the loan amount and the repayment plan as described above.
6. Upon identification of a pattern of the person's expenses exceeding funds available for a period of 3 consecutive months, the provider shall contact the person supported or the person's conservator or legal representative to develop a plan to ensure that the person's available funds are not exceeded. The provider shall also notify the ISC of the need to develop such a plan.

E. Prohibited Practices

1. Providers and their employees, representatives, subcontractors and paid conservators shall not illegally obtain, misappropriate or otherwise misuse personal funds.
2. Prohibited practices include, but are not limited to, the following:
 - a. Borrowing personal funds from the person supported.

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- b. Using a person's personal funds for staff benefit.
- c. Using a person's personal funds for agency benefit, e.g., to pay for maintenance/repair of property such as buildings, building grounds, equipment, or appliances owned by the provider, telephone charges (other than those attributed to the person's prorated share of basic phone service and the person's personal phone use), or for office space intended for provider use.
- d. Using a person's funds for the benefit of another person.
- e. Using personal funds for any medical supplies, services or equipment covered by TennCare/Medicaid, Medicare or other health insurance.
- f. Requiring a person supported to purchase home liability insurance as a condition of receiving services.
- g. Using a person's personal funds for purposes that do not benefit the person supported, except as specified above.

F. Reimbursement

The provider shall reimburse the person supported in a period not to exceed 30-days following the identification of a financial loss to the person supported caused by the action or inaction of the provider or the provider's employee, representative or subcontractor, including but not limited to:

- 1. Loss of Social Security funds due to the provider's negligence in allowing countable assets to exceed the countable asset limit.
- 2. Payment of bank fees for insufficient funds resulting from provider negligence.
- 3. Late payment penalties to utility companies.
- 4. Loss of funds due to theft or misappropriation by the provider or its employees, representatives, or subcontractors.
- 5. Paying expenses that do not directly benefit the person supported.
- 6. Providers shall reimburse the person supported for 100% of the cost of long distance telephone calls made from the home and for other utility expenses that are attributable to provider agency administrative use.

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G. Food Stamps

1. If the person supported receives food stamps, the provider must maintain receipts to document that the food stamps were used to purchase food for the person. Food stamp logs should contain the following:
 - a. Award amount.
 - b. Beginning Balance.
 - c. Date of transaction.
 - d. Name of the vendor where the transaction occurred.
 - e. Amount of the transaction.
 - f. Maintain a running balance.
 - g. Ending Balance.
2. Providers licensed by the Department of Intellectual and Developmental Disabilities as a provider of Residential Habilitation or Placement Services are responsible for the cost of the person supported meals and lodging within the room and board payment. The provider is permitted to apply the amount of the person's food stamps to the total amount spent for food. The provider must maintain receipts to document that the person's food stamps were used for this purpose.
3. Providers not meeting the above licensure requirements must maintain individual receipts to document that the person's food stamps were used for the benefit of the person supported.

H. Personal Property Inventory

1. Initial inventories of personal property shall be compiled as of the date the provider began providing services.
2. Consumables (e.g., toothpaste, shampoo) do not have to be included in the personal property inventory.
3. A non-consumable item valued at \$50.00 or more must be included in the personal property inventory.
4. A non-consumable item valued at less than \$50.00 must be included in the personal property inventory if requested by the person supported or the conservator.
5. Inventories of personal property shall be updated in a timely manner (i.e., on the day of the occurrence or the following morning) to indicate personal property removed from or brought into the home, as described above, and must include dated signatures of the individuals who supplied or disposed of the personal property.

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6. The personal property inventory should include the following:
 - a. Description of the item purchased (including serial number, model etc.).
 - b. Purchase date (or date brought into the home).
 - c. Value of the item.

I. Transition to a Different Provider

When a change of providers occurs the provider discontinuing services shall transfer the personal property and personal funds of the person supported in an efficient and timely manner to the receiving provider in accordance with the following:

1. Prior to a change of providers by the person supported, the provider discontinuing services shall reconcile records pertaining to personal funds management (e.g., personal allowance ledgers for petty cash, checkbooks) and shall supply the new provider with a written statement disclosing any debts owed by the person supported and, if applicable, the repayment plan.
2. Except as otherwise specified by Social Security rules, regulations, and policies, the provider discontinuing services shall forward any personal allowance cash balances to the new provider within 5 business days. If a business day falls on a state or federal holiday, the following business day will be considered the next business day.
3. The provider discontinuing services shall supply the new provider with an inventory of the person's personal property, including the actual personal property if a change in residence is necessary.
4. The new provider shall conduct an initial inventory of all personal property received and shall immediately notify the former provider and the ISC if there are any discrepancies between personal property received and personal property noted on the former provider's inventory.
5. Except as otherwise specified by Social Security rules, regulations, and policies, the new provider shall complete arrangements to transfer benefit payments (e.g., food stamp payments) within 5 business days. If the 5th business day falls on a state or federal holiday, transfers must be completed on the following business day.
6. If applicable, the new provider must complete and submit documents necessary to establish the new provider as the Representative Payee within

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30 calendar days. If the 30th day falls on a state or federal holiday, the day following the holiday will be considered the 30th day.

J. Restitution

The person's personal funds may be used as restitution for damages to property in accordance with a restitution plan which has been included in the person's ISP and approved by the regional human rights committee:

1. The restitution plan should be individualized based on the person's income, financial obligations, and role in creating the property damage. In the event that multiple parties damage property, each person shall pay restitution in proportion to his/her role in damaging the property.
2. The restitution plan must be approved by the regional human rights committee.
3. A behavior support plan which contains additional restrictive components regarding restitution must be approved by the regional behavior support committee.
4. As appropriate, the person's circle of support is encouraged to review the need for additional behavior supports.
5. Persons supported shall not be required to pay restitution for damage caused by normal wear and tear or for the cost of routine maintenance to the dwelling.

K. Management of Personal Funds for Persons Receiving Residential Services

1. Residential Habilitation and Medical Residential Services

For a person supported who receives Residential Habilitation Services or Medical Residential Services and the provider is licensed as a Residential Habilitation facility, the following shall apply:

- a. Licensed Residential Habilitation homes which are not subsidized by the U.S. Department of Housing and Urban Development (HUD) or the Tennessee Housing Development Agency (THDA):
 - i. If the person's total income excluding food stamps (e.g., combined total of SSI benefits, earned income and railroad

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retirement benefits) is equal to or exceeds the maximum SSI benefit for the applicable year, the person supported shall not be charged for room and board which exceeds 80% of the maximum SSI benefit.

- ii. If the person's total income excluding food stamps is less than the maximum SSI benefit for the applicable year, the person supported shall not be charged for room and board for more than 80% of his or her total income.
 - iii. As part of room and board for person supported under this section, the provider is responsible for furnishing basic supplies such as soap, toilet paper, facial tissues, and paper towels.
 - iv. The reimbursement rate for services may not be applied to room and board.
- b. Licensed Residential Habilitation homes which are subsidized by the U.S. Department of Housing and Urban Development (HUD) or the Tennessee Housing Development Agency (THDA):
- i. A provider may establish a reasonable average boarding charge based on documentation of incurred expenses necessary to cover room and board costs over and above the amount of the subsidized rent established by HUD or THDA. The average boarding charge shall be determined based on all of the provider's persons -supported residing in HUD or THDA-subsidized homes.
 - ii. Each person supported shall be allowed to retain an amount that is equivalent to at least 20% of the maximum SSI benefit for the applicable year. The provider shall apply the average boarding charge to all residents of HUD or THDA subsidized homes, with the exception of those persons supported for whom application of the full amount of the boarding charge would prevent the person supported from retaining 20% of the maximum SSI benefit.

2. Family Model Residential Support

- a. If the person's total income excluding food stamps is equal to or more than the maximum SSI benefit for the applicable year, the

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person supported shall not be charged for room and board which exceeds 70% of the maximum SSI benefit.

- b. If the person's total income excluding food stamps is less than the maximum SSI benefit for the applicable year, the person supported shall not be charged for room and board which exceeds 70% of his or her total income.
 - c. As part of room and board for person supported under this section, the provider is responsible for furnishing basic supplies such as soap, toilet paper, facial tissues, and paper towels.
 - d. The reimbursement rate for services may not be applied to room and board.
- 3. Leases or tenancy agreements shall meet DIDD and HCBS Final Rule requirements.
- 4. Earned income and SSI benefits may be deposited into the same bank account for the person supported.
- L. Paid Conservators

Any conservator who is paid by DIDD and who has legal responsibility for management of the person's personal funds shall develop and implement written policies and procedures to protect the person's personal funds in accordance with this policy. These policies must follow regulations as required by the Social Security Administration.

VII. **CQL STANDARDS:** 1f, 2g

VIII. **REVISION HISTORY:** November 17, 2015

IX. **TENNCARE APPROVAL:** October 26, 2016

X. **ATTACHMENTS:** None