



COMMISSIONER
Chris Traylor

July 13, 2011

To: All Medicaid-Certified Nursing Facilities
Subject: Information Letter (IL) 11-69
Identification of Residents' Trust Fund Accounts

Texas Administrative Code Title 40, §19.405(a) states that Medicaid-certified nursing facilities must keep residents' funds in an account separate from the facility's account. The rule states: "This separate account must be identified 'Trustee, (Name of Facility), Resident's Trust Fund Account.'"

The purpose of this IL is to inform you that effective June 15, 2011, the Department of Aging and Disability Services (DADS) will not cite a Medicaid-certified nursing facility for a rule violation if the word "trustee" is not used in the title of an account containing residents' funds. DADS has become aware banks are sometimes reluctant to open an account if the term "trustee" is used because this term suggests the need for certain trust documents, which are not required for resident accounts. In addition, the use of the word "trustee" in the title of an account is inconsistent with guidelines of the Social Security Administration for an account maintained by a representative payee. Please note this letter does not mean a facility must remove the word "trustee" from an account title, only that DADS will accept accounts that do not have "trustee" in the title.

Section §19.405(a) will be proposed for amendment in the near future to reflect this change in policy, giving nursing facilities greater flexibility to meet the requirements of banks and the Social Security Administration.

In the interim, this IL is intended to provide guidance for titling accounts containing resident funds without using the term "trustee." Specifically, for accounts containing personal funds:

- the account title must show the nursing facility holds the account in a fiduciary capacity on behalf of one or more residents of the facility; and
- a resident must not have direct access to funds in an account.

All other requirements of §19.405(a) remain in force.

If you have questions or need additional information, please contact Sandy Moore, at (512) 438-5824 or by e-mail at NF.Policy@dads.state.tx.us.

Sincerely,

[signature on file]

Teresa Richard
Director
Center for Policy and Innovation

TR:cp