

Residents' Financial Funds, Interest Bearing Accounts & Surety Bonds
Created by ODH in consultation with ODJFS/Medicaid
(Oct. 2012 - this guidance supersedes any previously issued guidance)

1. MULTI-FACILITY SURETY BONDS

- A. *Can the operator of a nursing home who also operates a residential care facility have one surety bond?*
- B. *Can the operator of multiple nursing homes have one surety bond that covers all the nursing homes?*
- C. *Can the operator of multiple RCFs) have one surety bond that covers all the RCFs?*

Yes, provided that the home provides assurances regarding the security of residents' funds.

“Home” is defined to include a nursing home or a residential care facility. *See* ORC 3721.01 (A)(1)(a). Section 3721.15(D) of the Ohio Revised Code (ORC) requires that “each home that manages the financial affairs of residents shall purchase a surety bond or otherwise provide assurance satisfactory to the director of health, or, in the case of a home that participates in the medicaid program, to the director of job and family services, to assure the security of all residents’ funds managed by the home.” (Emphasis Added).

The statutory language “each home” implies that each individual nursing home or residential care facility is required to purchase a surety bond to cover the funds managed by the individual home. However, the statutory language also allows for the requirement to be met in the alternative manner (through assurances regarding the security of residents’ funds). Therefore, a single surety bond that covers multiple RCFs and NHs is sufficient provided that each home is specifically covered by the bond and provided that the bond covers the full amount of all resident funds on deposit in all the entity’s facilities.

For surety bonds covering multiple facilities when Medicaid-certified nursing facilities are included, OAC 5101:3-3-16.5(I)(1)(e) and OAC 5101:3-3-15.5(I)(3) (the Medicaid rule) require that:

(I)(1)(e) If an entity purchases a surety bond that covers more than one of its facilities, the surety bond shall protect the full amount of all resident funds on deposit in all the entity’s facilities.

(I)(3) A NF provider or entity who operates multiple facilities shall submit copies of either the multi-facility surety bond or a reasonable alternative to the multi-facility surety bond to ODJFS for review and approval. If the NF provider, surety company, or issuer of an ODJFS-approved surety bond alternative cancels the surety bond or reasonable alternative to a surety bond, they shall notify ODJFS by certified mail thirty days prior to the effective date of cancellation.

Copies of the multi-facility surety bonds for Medicaid-certified facilities should be sent to the Surety Bond Designee, BLTCSS, Office of Medical Assistance, P.O. Box 182709, Columbus, OH 43218-2709.

2. **POOLED RESIDENT FUND ACCOUNTS**

Can an operator of a home “pool” multiple residents’ funds into one account in order to meet the minimum threshold for an interest bearing account with separate accounting for each resident?

Yes, provided that the home can ensure proper management of resident funds and provided that nursing facility residents’ personal needs account (“PNA”) funds are pooled only with funds of other nursing facility residents.

ORC 3721.15 (B) states that “*a home that manages* a resident’s financial affairs shall deposit the resident’s funds in excess of one hundred dollars, and may deposit the resident’s funds that are one hundred dollars or less, *in an interest bearing account*....” (Emphasis Added)

The statute does not specifically require a separate account for each resident, but does require that interest earned on the resident’s funds be credited to the resident’s account. Additionally, rule 3701-17-61 (C) (5) requires that a residential care facility allow a resident access to his or her funds during normal bank business hours within the community.

For Medicaid certified homes, OAC 5101:3-3-16.5(D)(2) provides as follows:

- (2) Funds in excess of fifty dollars. If a resident's PNA account funds are in excess of fifty dollars, the NF provider shall deposit the funds in an interest-bearing account (or accounts) that is separate from any of the NF provider's operating accounts within five banking days from the date the balance exceeds fifty dollars.

OAC 5101:3-3-16.5 provides in part as follows:

- (E) Accounting and records.
 - (1) A NF provider shall establish and maintain a system that ensures full, complete, and separate accounting of each resident's PNA account funds.
 - (2) A NF provider shall not commingle a resident's accounts or funds with the provider's accounts or funds, **or with the accounts or funds of any individual other than another NF resident.**

The Medicaid rule also states that “if pooled accounts are used, the provider shall prorate interest per resident on the basis of actual earnings or end-of-quarter balance.” The rule also requires that a provider “establish and maintain a system that ensures full, complete and separate accounting of each residents’ PNA funds.”

Therefore, managing a pooled account may present some challenges (i.e., tracking and dividing interest, providing accountings, providing account access, etc). While a pooled account is legally permissible, homes should evaluate their internal resources and consult with banking experts to discuss options that will ensure the proper management of funds. Additionally, nursing facility residents’ personal needs account (“PNA”) funds can only be pooled with funds of other nursing facility residents.

3. MULTI FACILITY POOLED RESIDENT FUND ACCOUNTS

Is it permissible to pool resident funds from multiple homes into one interest bearing account?

It depends.

- A. *Can the operator of a nursing home who also operates a residential care facility have one interest-bearing account for resident funds? **Not if the nursing home is Medicaid-certified.***
- B. *Can the operator of several nursing homes have one interest-bearing account for resident funds? **Yes, given the conditions below.***
- C. *Can the operator of several RCFs have one interest-bearing account for resident funds? **Yes, given the conditions below.***

The requirement for “homes” and for homes that are also “NF providers” are different.

“A home that manages” (singular) implies that each residential care facility and nursing home will manage the funds of their own residents. (See ORC 3721.15 (B) cited above). Homes are required to deposit funds in excess of one hundred dollars into an interest bearing account, but there is not an explicit requirement that the interest bearing account be used solely by one home. While multiple homes may share an interest bearing bank account, management of funds deposited remains the responsibility of each individual home.

Similarly, a “NF provider” (singular) implies that each NF provider will manage the funds of their own residents. (See OAC 5101:3-3-16.5 cited above). NF providers are required to deposit funds in excess of fifty dollars into an interest bearing account, but there is not an explicit requirement that the interest bearing account be used solely by one NF provider. However, NF residents’ accounts or funds may be comingled only with accounts or funds of other NF residents, and may not be comingled with the provider’s accounts or funds or with the accounts or funds of any individual other than another NF resident. Subject to this commingling limitation, multiple NF providers may share an interest bearing bank account, but management of funds deposited remains the responsibility of each individual home.