



STATE OF NEW YORK
DEPARTMENT OF HEALTH

161 Delaware Avenue Delmar, NY 12054-1393

Antonia C. Novello, M.D., M.P.H., Dr. P.H.
Commissioner

Dennis P. Whalen
Executive Deputy Commissioner

September 18, 2006

DQS/DAL # 06-14
Re: Protection of Resident Funds

Dear Administrator:

This letter provides clarification on the regulatory requirements for the protection of resident funds, specifically as it relates to the assurance of the security of such funds. Both Federal and State regulations mandate that nursing home providers must assure the security of all personal resident funds deposited with the facility.

Federal regulation at CFR 483.10 (c) (7) mandates that the provider must purchase a surety bond, or otherwise provide assurance satisfactory to the Secretary, to assure the security of all personal resident funds deposited with the facility.

State regulation at NYCRR 415.26 (h) (5) (v) mandates that the facility shall assure the security of all personal funds of residents deposited with the facility.

The regulations are intended to guarantee that a facility will pay the resident, or the State on behalf of the resident, for losses occurring from the facility's failure to hold, safeguard, manage and account for the residents funds.

If a nursing home chooses to provide insurance other than a surety bond, the insurance must provide the same protections as the surety bond. Therefore, the facility cannot be the beneficiary of the insurance. In addition, the protection must include losses resulting from acts or errors of negligence, incompetence or dishonesty. These include losses resulting from failure by the facility by commission, bankruptcy, or omission.

Please review your current insurance instruments for assuring the security of personal resident funds that are deposited with your facility. Ensure that the regulatory requirements are met.

If you have any questions, please contact Denise Breli-Hyland, Division of Quality & Surveillance for Nursing Homes and ICFs/MR, at (518) 408-1267. Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Keith W. Servis". The signature is written in black ink and is positioned above the printed name.

Keith W. Servis, Director
Division of Quality & Surveillance
for Nursing Homes and ICFs/MR