Ohio Administrative Code

Rule 5122-2-03 Chief executive officer as representative payee.

Effective: June 27, 2011

(A) The purpose of this rule shall be to establish procedures for the chief executive officer (CEO) of a regional psychiatric hospital (RPH) to apply for and manage funds of clients receiving intensive and specialized services or forensic inpatient services in those RPHs. The CEO shall only apply to become representative payee of a client's funds after all other avenues to obtain an appropriate representative payee have been pursued to no avail.

(B) Definitions:

"Representative payee" means a CEO who has been designated to receive a RPH client's funds and who is responsible to expend the monies for the benefit of the client in accordance with the regulations of those agencies providing the monies. Such agencies can include: federal civil service retirement; public employees retirement system; railroad retirement; social security administration - aged; social security administration - disabled; school employees retirement system; school teachers retirement system; veteran's administration compensation, or pension.

(C) Proper use of representative payee funds:

(1) Funds the CEO receives shall be used for the benefit and well-being of the client.

(2) The CEO is responsible for ensuring that the client is involved in determining his or her needs and that those needs are met.

(3) The client's treatment team shall document that at least quarterly a needs assessment has been done, that the client was involved in that assessment, that items needed are obtained and delivered to the client, and that the client has been informed of the amount of funds available to meet needs. The client must be informed of any per diem charges.

(4) At any time the client is entitled to know the amount of funds available, and to have those funds

expended for current needs.

(D) Proper expenditure of representative payee funds:

(1) To meet the personal needs of the client which can aid in the client's recovery or discharge from the RPH or will improve living conditions while there, for example:

(a) Money for spending or for a canteen fund up to fifty dollars per month. Additional funds may be authorized by the client's treatment team based on the client's needs;

(b) Well-fitting clothes and supplies for personal grooming;

(c) Eyeglasses, dentures, hearing aids, dental care or other medical prosthesis, if not reimbursable by some third-party payor;

(d) Transportation costs for client to visit relatives or places that may help lead to recovery; and

(e) Reasonable transportation costs for a close relative to visit if a visit would be in the client's best interest and the client agrees.

(2) Depending upon the personal circumstances of the client, it is possible that one hundred per cent of funds could be spent on personal needs. The department expects that monthly funds available be expended on the personal needs of the client.

(E) Investments and accrual of funds:

(1) It is a high priority of the department that adequate invested funds be accumulated for the client's discharge, thus facilitating return to community living. These accumulated funds can also be used to establish a burial fund if the client dies while in the RPH.

(2) When a CEO becomes a client's representative payee, a fund shall be established and regularly added to from each month's check until a minimum amount of five hundred dollars has been reached. If the client's treatment team foresees a future discharge need greater than five hundred dollars, the

regular addition to this fund should continue until the amount of combined funds reaches one thousand five hundred dollars as described in this paragraph.

(a) When investing funds to meet the immediate discharge needs of a client or to secure burial, these funds must be kept in individual federally insured interest bearing accounts.

(b) When funds are so invested, the CEO shall ensure that accumulation of principal and interest does not disqualify the client from health or welfare benefits that might otherwise be available to the client unless there is documented exception by the CEO. Principal, interest and the money available in the client's business office account (including the current month's check) should not exceed one thousand five hundred dollars. If the client's account balance exceeds one thousand five hundred dollars, the excess should be applied to spend-down such as personal needs items or hospital per diem charges.

(c) The CEO shall document that an assessment of needs upon discharge has been made, including consultation with community placements regarding normal and anticipated client placement needs.

(d) In most cases, the CEO will be requesting the proper agency to designate a new representative payee when discharging a client. However, the CEO, as representative payee, has some responsibility to provide for the current needs of the client until the designation is changed. Therefore, these invested funds and future monthly funds can be expended at the time of discharge and following discharge until a new representative payee is designated. The CEO should inform the client's community case manager or the prospective representative payee what unused funds are still available for use upon request. Until the RPH representative payee status has been changed, the CEO remains accountable through documentation for expenditure of these funds and should therefore require proper documentation for funds disbursed for the client's use at the time of discharge, and after discharge but before official transfer of the representative payee status.

(F) Other acceptable client expenditures:

(1) School expenses;

(2) Special rehabilitation or medical equipment expenses if not reimbursed by some other third-party

payor;

(3) Insurance premiums;

(4) Current payments on a house in which the client has an interest;

(5) Tax payments;

(6) If all basic needs of a client are being met, some funds may be used to help support a spouse, child, or parent dependent under state law, and

(7) In some cases, a group of clients are allowed to purchase in common some specific items, for example, social/recreational equipment. If this type of purchase is needed, prior written approval of the funding agency is required.

If the CEO is not sure whether a proposed special needs expenditure is proper, it should be cleared with the funding agency.

(G) CEO reporting responsibilities as representative payee:

(1) The representative payee must, within seven days, report to the agency providing benefits to the client any changes that may affect benefit payments such as:

(a) Client enters or leaves RPH;

(b) Client stops or starts working (no matter how small the earnings are);

(c) A client has a change in income or resources;

(d) RPH is no longer responsible for the client; or

(e) Client's treatment team determines client is capable of assuming responsibility for his/her own funds.

(2) The representative payee must, within seven days, report to the agency providing benefits to the client certain events such as:

(a) A disabled person's condition improves whereby reasonable gainful employment is possible;

(b) Custody of a child changes;

(c) Client starts receiving another benefit or has a change in the amount; or

(d) Client plans to go outside the United States for thirty days or more.

The CEO shall ensure that responsibility for fulfilling these reporting requirements is assigned to appropriate staff and that such reporting occurs regularly and promptly.

(H) Requirements when the CEO stops being the representative payee, or if the client dies:

(1) To avoid any unnecessary or lengthy interruptions of funds, the CEO is responsible for notifying the proper agency in advance if the RPH no longer intends to act as payee.

(2) Advance notification must allow time to locate and select a new representative payee. The CEO cannot select or approve the new representative payee.

(3) When the proper agency has approved a new representative payee, generally the CEO must turn over to the proper agency all invested funds, including principal and interest, as well as cash on hand. In some cases, however, the CEO may be asked by the agency to turn over all such funds to the client or to the new representative payee.

(4) When a CEO has requested a change of representative payee status, upon discharge of a client, the CEO may continue to expend funds on behalf of the client until a new representative payee has been designated.

(5) If the client dies, at that point any remaining or invested funds, including principal and interest,

belongs to his or her estate. The funds must be given to the legal representative of the estate for distribution or otherwise handled in accordance with state law. In some instances there are insufficient funds to meet immediate burial costs and the court handling the estate may order the RPH to disburse funds for a certain purpose at that time and to disburse remaining funds according to further instructions. The CEO should comply with only court orders regarding disposal of all estate funds upon the client's death.

(I) Evaluating the need to continue as representative payee for the client.

(1) At least twice a year, depending upon the client's length of stay, the individual treatment team shall evaluate whether the client really needs to continue having a representative payee. If it is their opinion that the client no longer needs a representative payee, and the client agrees, the RPH should submit such information to the proper agency for its consideration.

(2) When the RPH discharges a client who has a representative payee (whether the representative payee is the CEO or another person), the individual treatment team, when notifying the social security administration of discharge, shall state their opinion as to whether the client has a need for continuation of the representative payee.

(J) CEO accounting for representative payee funds:

(1) As representative payee, the CEO has a fiduciary relationship to the client.

(2) Appropriate records of money received and how it was spent or invested must be kept by the CEO and is subject to audit by the state auditor's office, the department's internal auditors, and auditors from the proper agency designating the CEO as representative payee.

(3) Monies received and disbursed shall conform to those business procedures detailed in rule 5122-9-10 of the Administrative Code.

(4) Sometimes the agency designating the CEO as representative payee will require specific reports of its own. The CEO shall comply with these requests.

The CEO shall assure that staff are assigned to properly administer and account for these funds as described in this paragraph.

(K) Department monitoring of CEO duties as representative payee.

(1) The office of fiscal administration shall conduct, at least annually, an audit of representative payee accounts as part of the regular RPH audit. This part of the audit shall review the client's account, the current account billing by the fiscal operations and revenue section (formerly the section of reimbursement services) of the department, and a review of procedures included in this procedure with regard to performance as representative payee. One of the performance criteria used in the department's internal audit will be expenditure of funds for personal needs or documented exceptions authorized by the CEO and that there are properly invested funds which have been used as an appropriate part of discharge planning.

(2) A copy of the findings of the office of fiscal administration during this internal audit shall be forwarded to the CEO, deputy director of hospital services and the department chief financial officer.

(3) If the internal audit report includes deficiencies regarding responsibilities as representative payee, the CEO shall prepare a plan of correction for this and send a copy to the deputy director of hospital services and the department chief financial officer.

(4) When the deputy director of hospital services, has approved the plan of correction for implementation, a copy will be forwarded to the office of fiscal administration to be included for review during the next scheduled audit.

(L) Training:

The CEO is responsible for ensuring that training is provided to those RPH staff having responsibility for carrying out the duties of representative payee. Training shall be provided to such personnel on an annual basis. Documentation that all staff having responsibility for carrying out the duties of representative payee receive such training once each calendar year shall be maintained.