

**RULES
OF
TENNESSEE DEPARTMENT OF CHILDREN'S SERVICES**

**CHAPTER 0250-7-10
ADMINISTRATION OF COLLECTIVE FUND ACCOUNTS**

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0250-7-10-.01 PURPOSE.

The purpose of these rules is to establish policies and procedures for the accounting and use of money held in children's accounts in the Collective Fund for children in the custody of the State. These funds may include, but are not limited to: Social Security benefits (Title II and Title XVI), Railroad Retirement benefits, Veterans benefits, Black Lung benefits, and child support.

***Authority:** T.C.A. §§4-3-1007, 4-4-102, 4-5-217, 4-5-226(b)(2), 37-5-101, 37-5-105, 37-5-106 and 37-5-112(a), and Executive Order No. 58. **Administrative History:** Original rule filed December 28, 1995; effective April 29, 1996. Rule assigned a new control number, removed and renumbered from 1200-31-1-.01 filed and effective June 3, 1999. Repeal and new rule filed June 8, 2005; effective August 22, 2005.*

0250-7-10-.02 DEFINITIONS.

- (1) The term "authorized expenditures" means those expenses incurred on behalf of children which have been approved by those persons designated to purchase services or goods.
- (2) The term "beneficiary" means the child for whom the Children's Services maintains an account in the Collective Fund.
- (3) The term "Black Lung benefits" means those benefits established by the Federal Coal Mine Health and Safety Act of 1969, Title IV, for miners totally disabled by black lung disease and for dependents of miners who had died from the disease or were totally disabled from the disease at death.
- (4) The term "Cash Basis" means the method of accounting in which the revenues and expenditures are recognized when payments are received or made.
- (5) The term "child" shall conform to TCA §§37-1-102 (b) (4) and 37-1-103(c) provided, however, for purposes of accounting for the funds of a person remaining in the care of the State of Tennessee after the person's 19th birthday, the term shall include a person who was previously placed in the custody of the State of Tennessee prior to the person's 18th birthday.
- (6) The term "Collective Fund" for the purposes of these rules refers to the collection of children's accounts used to account for the receipt and disbursement of benefits received from the federal government and to provide for the current and future needs of children in state custody. Benefits currently received for children include SSA (Title II), SSI (Title XVI), RR, Black Lung, Veteran's and Child Support.

(Rule 0250-7-10-.02, continued)

- (7) The term “Commissioner of the Department of Children’s Services” means the Governor’s appointee to assume the charge and general supervision of the Department of Children’s Services.
- (8) The term “current benefits” means those benefits, which are allowed to be spent on behalf of a child for the person’s current or reasonably foreseeable needs.
- (9) The term “custodial department” means the department of state government which has been awarded legal custody of the child by a court.
- (10) The term “Department” means the State’s Department of Children’s Services.
- (11) The term “DCS” stands for the Department of Children’s Services.
- (12) The term “Department of Children’s Services” or “DCS” means the Department responsible for administering the collective fund.
- (13) The term “disbursement of funds” means the payment of funds for authorized expenditures for the well-being of the child. This includes the pass through of current benefits to the parent, relative, or other person with whom children are home on trial visits.
- (14) The term “first in, first out” means qualifying current obligations that will be paid in the chronological order in which they were received.
- (15) The term “funding source” means a federal agency from which monetary benefits are received by the State for children in state custody or child support.
- (16) The term “interest income” means interest earned on funds deposited in a State interest-bearing account, net of administrative fees incurred by State Treasurer’s Office.
- (17) The term “legal custody” means the legal right and responsibility to provide for the physical, mental, moral and emotional well-being of the child (i.e., like those rights exercised by a parent).
- (18) The term “lump sum payment or retroactive benefits” means receipt of accumulated benefits for the purpose of these rules that have been identified by SSA as Dedicated Funds.
- (19) The term “monthly balances” means the net amount of funds on hand in an account on the last day of each month.
- (20) The term “open ended entitlement funds” means federal funds which the State is authorized to use for the benefit of eligible clients. This includes Title XIX and Title IV-E.
- (21) The term “personal need allowance (PNA)” means monies made available to the child for personal use.
- (22) The term “physical custodian” refers to the person in charge of a household or facility where an individual in custody is living.
- (23) The term “POMS” refers to the Social Security Administration’s Program Operations Manual System.
- (24) The term “railroad retirement” means benefits made available on behalf of a child which are authorized by Railroad Retirement.

(Rule 0250-7-10-.02, continued)

- (25) The term “representative payee” means that person designated by the funding source or court order to receive and be responsible for the use of funds on behalf of the child and to ensure that the beneficiary’s current and reasonably foreseeable future financial and physical needs are met.
- (26) The term “SSA” stands for the Social Security Administration.
- (27) The term “State Treasurer’s account” means an account maintained by the State Treasurer.
- (28) The term “Tennessee Office of the Treasurer interest rate” means the rate of interest determined and paid by the State Treasurer.
- (29) The term “Title II funds” means social security benefits (SSA) funds made available from the Social Security Administration for the care and maintenance of a child having deceased, aged, or disabled parent(s), as provided in Title II of the Social Security Act.
- (30) The term “Title IV-E” for the purposes of these rules means the program under AFDC Foster Care. Title IV-E provides for the maintenance payments made for eligible children in foster care family homes or child care institutions housing up to 25 people, and that portion of the title which permanently authorized States to develop adoption assistance agreements with the adoptive parents of children with “special needs.” A maintenance payment is the expenditure for room, board, clothing and food.
- (31) The term “Title XVI funds” means supplemental security income (SSI) funds made available from the Social Security Administration for the care and maintenance of a child with a disability, as provided in Title XVI of the Social Security Act.
- (32) The term “Title XIX” refers to medical assistance (Medicaid) provided under Title XIX of the Social Security Act.
- (33) The term “trial home visit” is defined for purposes of these rules as the return of physical custody of the child to a parent, relative or other appropriate individual to determine whether full custody should be granted to that parent, relative, or other appropriate individual; however, the State retains legal custody during the trial home visit period.
- (34) The term “Veteran’s” for the purposes of these rules, means the benefits and services to eligible veterans, members of their families, and survivors of deceased veterans.

Authority: T.C.A. §§4-3-1007, 4-4-102, 4-5-217, 4-5-226(b)(2), 37-5-101, 37-5-105, 37-5-106 and 37-5-112(a), and Executive Order No. 58. **Administrative History:** Original rule filed December 28, 1995; effective April 29, 1996. Rule assigned a new control number, removed and renumbered from 1200-31-1-.02 filed and effective June 3, 1999. Repeal and new rule filed June 8, 2005; effective August 22, 2005.

0250-7-10-.03 POLICY.

The State will maintain funds on behalf of the beneficiary and expend the funds for authorized expenditures the State has incurred for the care of the beneficiary during the time period that the Commissioner has been designated as the representative payee by the funding source or court order. The funds may be used for personal spending on behalf of the beneficiary, but they may not be used for educational expenditures which are guaranteed by the State’s Constitution. Funds which are governed by federal grants, state statutes, or federal regulations or policies will be administered according to those guidelines.

Authority: T.C.A. §§4-3-1007, 4-4-102, 4-5-217, 4-5-226(b)(2), 37-5-101, 37-5-105, 37-5-106 and 37-5-112(a), and Executive Order No. 58. **Administrative History:** Original rule filed December 28, 1995; effective April 29,

(Rule 0250-7-10-.03, continued)

1996. Rule assigned a new control number, removed and renumbered from 1200-31-1-.03 filed and effective June 3, 1999. Repeal and new rule filed June 8, 2005; effective August 22, 2005.

0250-7-10-.04 CUSTODIAN OF COLLECTIVE FUNDS.

The Commissioner of the Department of Children's Services shall serve as the custodian of all accounts in the Collective Fund accounts. The custodian shall comply with these rules and shall ensure the employment of the appropriate accounting principles.

Authority: T.C.A. §§4-3-1007, 4-4-102, 4-5-217, 4-5-226(b)(2), 37-5-101, 37-5-105, 37-5-106 and 37-5-112(a), and Executive Order No. 58. **Administrative History:** Original rule filed December 28, 1995; effective April 29, 1996. Rule assigned a new control number, removed and renumbered from 1200-31-1-.04 filed and effective June 3, 1999. Repeal and new rule filed June 8, 2005; effective August 22, 2005.

0250-7-10-.05 ACCOUNTING FOR FUNDS.

- (1) All funds will be made available to be expended by the State for authorized, cash basis expenditures during the month in which funds are received. Any money not used for current and reasonably foreseeable needs will be conserved in accordance with these rules. If the State seeks to use the trust funds for reimbursement for previously paid bills, it will seek approval from the appropriate funding source.
- (2) The authorized funds must be recorded in the State accounting system during the months in which they are credited to a child's account within the Collective Fund.
- (3) All qualifying current authorized expenditures will be paid on a first in, first out method.
- (4) All funds must be maintained in an account supervised by the Tennessee Office of the Treasurer.
- (5) Accountings shall not list separate Funding Sources. There will be no such accounting unless doing so is required by federal or state regulations. If federal or state regulations require an accounting based on Funding Sources, the benefits, including interest, will be coded by type of Funding Source and authorized disbursements will be coded to correspond to the type of Funding Source.
- (6) Funds received will be used in the order established by the Commissioner of Department of Children's Services in compliance with state and federal regulations.
- (7) Interest on all funds will be credited monthly.
- (8) Any change in the basis of accounting will be recommended by the Commissioner of Department of Children's Services to the Commissioner of Finance and Administration for approval.
- (9) Exceptions to the above mentioned procedures will be granted only after written direction by an appropriate official designated by the Commissioner of the Department of Children's Services.
- (10) DCS will work with the funding source to identify all unidentified funds. Funds that remain unidentified for a period of two (2) years will be returned to the funding source. Funds for which funding source cannot be identified will be transferred to unclaimed property of the Tennessee Office of the Treasurer.
- (11) Reimbursement received from private insurance or other source of funds for costs paid from the Collective Fund will be used to reimburse the child's account in the Collective Fund.

(Rule 0250-7-10-.05, continued)

Authority: T.C.A. §§4-3-1007, 4-4-102, 4-5-217, 4-5-226(b)(2), 37-5-101, 37-5-105, 37-5-106 and 37-5-112(a), and Executive Order No. 58. **Administrative History:** Original rule filed December 28, 1995; effective April 29, 1996. Rule assigned a new control number, removed and renumbered from 1200-31-1-.05 filed and effective June 3, 1999. Repeal and new rule filed June 8, 2005; effective August 22, 2005.

0250-7-10-.06 AUTHORIZED EXPENDITURES.

The following will define expenditures for which funds can be used:

- (1) Expenditures for room and board, except those not allowed by state or federal regulations or laws. These expenditures are those authorized by the state or its agents.
- (2) Expenditures for medical expenses, except those not allowed by regulations as outlined in paragraph six (6) of Section 0250-7-1-.05 "Accounting for Funds."
- (3) Expenditures for education expenses not guaranteed by the State's Constitution or statutes; and
- (4) Any miscellaneous expenditure which would benefit the welfare of the beneficiary. The miscellaneous expenditures will be classified by nature of the expenditure (e.g., clothing, travel, etc.).

Authority: T.C.A. §§4-3-1007, 4-4-102, 4-5-217, 4-5-226(b)(2), 37-5-101, 37-5-105, 37-5-106 and 37-5-112(a), and Executive Order No. 58. **Administrative History:** Original rule filed December 28, 1995; effective April 29, 1996. Rule assigned a new control number, removed and renumbered from 1200-31-1-.06 filed and effective June 3, 1999. Repeal and new rule filed June 8, 2005; effective August 22, 2005.

0250-7-10-.07 INTEREST ON FUNDS.

- (1) Collection of interest will be in accordance with the regulations of the Tennessee Office of the Treasurer Regulations.
- (2) Except as provided in Rule 0250-7-1-.11, interest on funds will be assigned to each child's account in the Collective Fund according to the method established for the State by the Tennessee Office of the Treasurer.
- (3) No interest will be granted to funds not maintained in a Tennessee Office of the Treasurer account.

Authority: T.C.A. §§4-3-1007, 4-4-102, 4-5-217, 4-5-226(b)(2), 37-5-101, 37-5-105, 37-5-106 and 37-5-112(a), and Executive Order No. 58. **Administrative History:** Original rule filed December 28, 1995; effective April 29, 1996. Rule assigned a new control number, removed and renumbered from 1200-31-1-.07 filed and effective June 3, 1999. Repeal and new rule filed June 8, 2005; effective August 22, 2005.

0250-7-10-.08 ADMINISTRATIVE CHARGES.

An administrative charge will be set based upon a rate approved by the Commissioner of Finance and Administration. The administrative charge must be in compliance with the requirements of federal statutes, regulations, and the SSA Program Operations Manual System (POMS).

Authority: T.C.A. §§4-3-1007, 4-4-102, 4-5-217, 4-5-226(b)(2), 37-5-101, 37-5-105, 37-5-106 and 37-5-112(a), and Executive Order No. 58. **Administrative History:** Original rule filed December 28, 1995; effective April 29, 1996. Rule assigned a new control number, removed and renumbered from 1200-31-1-.08 filed and effective June 3, 1999. Repeal and new rule filed June 8, 2005; effective August 22, 2005.

0250-7-10-.09 MANAGEMENT OF CHILD INFORMATION.

All information and reporting requirements regarding the collective fund will be the responsibility of the Department of Children's Services. These include representative payee reports, court-ordered reports, other federal reports, or any additional required or requested reports.

Authority: T.C.A. §§4-3-1007, 4-4-102, 4-5-217, 4-5-226(b)(2), 37-5-101, 37-5-105, 37-5-106 and 37-5-112(a), and Executive Order No. 58. **Administrative History:** Original rule filed December 28, 1995; effective April 29, 1996. Rule assigned a new control number, removed and renumbered from 1200-31-1-.09 filed and effective June 3, 1999. Repeal and new rule filed June 8, 2005; effective August 22, 2005.

0250-7-10-.10 ACCOUNTING FOR PERSONAL ACCOUNTS.

- (1) Each custodial department and/or individual holding funds and having responsibility for the child may hold personal funds on behalf of the child. These personal funds may include, but are not limited to, allowances, wages earned, and gifts.
- (2) These personal funds will not be a part of the child's account in the Collective Fund maintained by DCS.
- (3) The accountability for personal funds will be the responsibility of the DCS facility where the child is placed while in the Department's physical custody, or the contract agency where the child is in the physical custody of a contract agency, regardless of where the personal funds are held. The DCS Facility, or contract agency, shall place any personal funds exceeding one-hundred and fifty (\$150) in an interest-bearing account and shall furnish any information about the personal funds requested by DCS.
- (4) The state may authorize the use of personal funds on a case-by-case basis for the care and maintenance of the child, if the child's eligibility for means-tested entitlements is jeopardized because the monthly balance of the child's personal account exceeds that allowed by the Funding Source.
- (5) With respect to resources or income, the State must report earnings for a Social Security beneficiary who works for more than the annual limit (\$8,160 for 1995). For SSI recipients, the State must report all changes to the recipient's income or resources. The custodial department shall report additional income and resources as required by Social Security to Children's Services.

Authority: T.C.A. §§4-3-1007, 4-4-102, 4-5-217, 4-5-226(b)(2), 37-5-101, 37-5-105, 37-5-106, 37-5-112(a), and Executive Order No. 58. **Administrative History:** Original rule filed December 28, 1995; effective April 29, 1996. Rule assigned a new control number, removed and renumbered from 1200-31-1-.10 filed and effective June 3, 1999. Repeal and new rule filed June 8, 2005; effective August 22, 2005.

0250-7-10-.11 ADDITIONAL RULES FOR SOCIAL SECURITY BENEFITS

- (1) With respect to Title II and Title XVI funds, to the extent that the rules in this section conflict with any other rules, or are more specific than, any of the rules in these rules, the rules in this section shall control.
- (2) DCS will maintain a separate accounting for each child's benefits account.
 - (a) Upon written request, DCS will send an annual accounting by category for monthly expenditures of the use of the child's funds to the committing court, the child's attorney or guardian ad item, or the child, if age 17 or over.

(Rule 0250-7-10-.11, continued)

- (b) Accountings will be sent to a child's parent or guardian only if such release of information is approved by the DCS and does not violate federal or state law.
 - (c) Requests can be made only once a year on behalf of each child beneficiary. The child in custody for less than a year is entitled to an annual accounting by category as well.
 - (d) DCS will maintain a written record of the number of accounting requests received, the date of receipt, the number processed, and the date the accounting was provided and to whom the information was provided.
- (3) DCS shall provide information about a child's benefits to the child beneficiary's custodial department worker, including information about the child's benefits and about the custodial department worker's right to ask for special items for the child, if there is money left after current maintenance is provided for the child. A copy of the child's benefits summary shall be placed in the child's case file at the custodial department.
 - (4) Notwithstanding Rules 0250-7-1-.05(3), (8) and (9), DCS will not use a lump sum payment or retroactive benefits, as defined by SSA as dedicated funds, for Title XVI award for payment of a child's prior care without the express written authority from the SSA.
 - (5) Refund of unused balances to the funding source will be made in accordance with written regulations of the SSA not to exceed 60 days.
 - (6) If a child who receives SSI enters an institution in which a major portion of a bill is paid by the Title XIX program, the representative payee shall inform the SSA of the placement. DCS will comply with instructions from SSA for each child concerning the refund or use of funds.
 - (7) In the event that a child receives Title XVI funds, the child's placement facility, or any other fiduciary who holds any funds for such child shall report monthly the balances of the child's personal funds to DCS in order for DCS to meet its accountability and reporting duties to the SSA.
 - (8) These rules are subject to the requirements of state statutes, federal statutes, regulations, and the SSA Program Operations Manual System (POMS). To the extent that these rules are or may become in conflict with the requirement of federal statutes, regulations, or the SSA POMS as may be amended, the federal statutes, regulations, or the SSA POMS shall govern.

Authority: T.C.A. §§4-3-1007, 4-4-102, 4-5-217, 4-5-226(b)(2), 37-5-101, 37-5-105, 37-5-106, 37-5-112(a), and Executive Order No. 58; 42 U.S.C. §§405 et seq. and 1382 et seq.; 20 C.F.R. 404.301 et seq. **Administrative History:** Original rule filed December 28, 1995; effective April 29, 1996. Rule assigned a new control number, removed and renumbered from 1200-31-1-.11 filed and effective June 3, 1999. Repeal and new rule filed June 8, 2005; effective August 22, 2005.

0250-7-10-.12 AMENDMENTS OR WAIVER OF RULES.

The Commissioner of the Department of Children's Services reserves the right to amend or waive any or all of these rules, with the exceptions of rules which are included to comply with regulations of the Funding Sources, if deemed in the best interest of the state.

Authority: T.C.A. §§4-3-1007, 4-4-102, 4-5-217, 4-5-226(b)(2), 37-5-101, 37-5-105, 37-5-106, 37-5-112(a), and Executive Order No. 58. **Administrative History:** Original rule filed December 28, 1995; effective April 29, 1996. Rule assigned a new control number, removed and renumbered from 1200-31-1-.12 filed and effective June 3, 1999. Repeal and new rule filed June 8, 2005; effective August 22, 2005.