*** § 29.23 Powers with respect to property of persons receiving services.**

The commissioner may authorize the directors of department facilities, to receive or obtain funds or other personal property, excepting jewelry, due or belonging to a person receiving services from such facility who has no guardian authorized to receive such funds or property, up to an amount or value not exceeding twenty-five thousand dollars; and also from a guardian upon his discharge when the final order so provides where the balance remaining in the hands of such guardian does not exceed such amount. Such personal property, excepting jewelry, other than moneys shall be retained by the director for the benefit of the person for whom received until sold as hereinafter provided. Such funds and the proceeds of the sale of other personal property so received shall be placed to the credit of the person for whom received and disbursed on the order of the director, to provide, in the first instance, for luxuries, comforts, and necessities for such person, including burial expenses and such director shall be authorized to seek to place, to the extent permissible by law, funds in excess of the appropriate eligibility level for government benefits, into a qualifying Medicaid exception trust, including a special needs trust, or similar device. The director of a department facility shall ensure that the treatment team meet with, and determine the current and future personal needs of, the person receiving services. For purposes of this section, a treatment team is one that is responsible for the following, including but not limited to, clinical assessments, treatment plan development, any necessary discharge planning, and personal expenditure planning. The commissioner may authorize directors, on behalf of any such person, to give receipts, execute releases and other documents required by law or court order, to endorse checks and drafts, and to convert personal property excepting jewelry into money by sale for an adequate consideration, and to execute bills of sale or to permit such person to do so, in order that the proceeds may be deposited to the credit of such person in accordance with the provisions of this section.

Whenever, under the provisions of this section, the commissioner shall authorize the director of a facility in the department to receive moneys or other personal property excluding jewelry belonging to a person which

are on deposit in any bank or other institution or which are due to the person from any person or agency, such bank, institution, person, or agency shall, upon the written request of the director, forthwith turn over to such director from such moneys or personal property the amount or value hereinbefore specified. Any moneys received by the director of such facility shall be deposited by him in such bank or trust company as shall be designated by the comptroller, except that the commissioner may, in his discretion, invest so much thereof as he may deem advisable in bonds issued by the United States government or any of its agencies.

Moneys belonging to a person received by the director of such facility pursuant to law shall be received by him in his official capacity as such director and such receipt shall be deemed an exercise or performance by him of a power and duty duly conferred by this section. In the event that a director of a department facility receives a windfall payment on behalf of a person which, in combination with other funds held on behalf of such person, would cause such person to become ineligible for government benefits, such director shall, to the extent permissible by law, apply the funds in excess of the appropriate eligibility level to the person's personal needs or seek to place such excess funds into a qualifying Medicaid exception trust, including a special needs trust, or similar device. For purposes of this section, a windfall payment shall mean a one-time payment such as a gift, an inheritance, lottery winnings, or court-ordered judgment or settlement.

This section shall not apply to any federal or state benefits received by the director as representative payee, which benefits shall be handled in accordance with section 33.07 of this title and regulations promulgated thereunder.

* NB Effective until June 30, 2027

* § 29.23 Powers with respect to property of patients.

The commissioner may authorize the directors of department facilities, to receive or obtain funds or other personal property, excepting jewelry, due or belonging to a patient who has no committee, up to an amount or value not exceeding five thousand dollars; and also from a committee upon his discharge when the final order so provides where the

balance remaining in the hands of such committee does not exceed such amount. Such personal property, excepting jewelry, other than moneys shall be retained by the director for the benefit of the patient for whom received until sold as hereinafter provided. Such funds and the proceeds of the sale of other personal property so received shall be placed to the credit of the patient for whom received and disbursed on the order of the director, to provide, in the first instance, for luxuries, comforts, and necessities for such patient, including burial expenses, and, if funds are thereafter available, for the support of such patient. The commissioner may authorize directors, on behalf of any such patient, to give receipts, execute releases and other documents required by law or court order, to endorse checks and drafts, and to convert personal property excepting jewelry into money by sale for an adequate consideration, and to execute bills of sale or to permit such patient to do so, in order that the proceeds may be deposited to the credit of such patient in accordance with the provisions of this section.

Whenever, under the provisions of this section, the commissioner shall authorize the director of a facility in the department to receive moneys or other personal property excluding jewelry belonging to a patient which are on deposit in any bank or other institution or which are due to the person from any person or agency, such bank, institution, person, or agency shall, upon the written request of the director, forthwith turn over to such director from such moneys or personal property the amount or value hereinbefore specified. Any moneys received by the director of such facility shall be deposited by him in such bank or trust company as shall be designated by the comptroller, except that the commissioner may, in his discretion, invest so much thereof as he may deem advisable in bonds issued by the United States government or any of its agencies.

Moneys belonging to a patient received by the director of such facility pursuant to law shall be received by him in his official capacity as such director and such receipt shall be deemed an exercise or performance by him of a power and duty duly conferred by this section.

* NB Effective June 30, 2027