§ 131-o. Personal allowances accounts. 1. Each individual receiving family care, residential care or care in a school for individuals with developmental disabilities, or enhanced residential care as those terms are defined in section two hundred nine of this chapter, and who is receiving benefits under the program of additional state payments pursuant to this chapter while receiving such care, shall be entitled to a monthly personal allowance out of such benefits in the following amount:

* (a) in the case of each individual receiving family care, an amount equal to at least $186.00 for each month beginning on or after January first, two thousand twenty-five.

* NB Effective until December 31, 2026

* (a) in the case of each individual receiving family care, an amount equal to at least $191.00 for each month beginning on or after January first, two thousand twenty-six.

* NB Effective December 31, 2026

* (b) in the case of each individual receiving residential care, an amount equal to at least $213.00 for each month beginning on or after January first, two thousand twenty-five.

* NB Effective until December 31, 2026

* (b) in the case of each individual receiving residential care, an amount equal to at least $219.00 for each month beginning on or after January first, two thousand twenty-six.

* NB Effective December 31, 2026

* (c) in the case of each individual receiving enhanced residential care, an amount equal to at least $255.00 for each month beginning on or after January first, two thousand twenty-five.

* NB Effective until December 31, 2026

* (c) in the case of each individual receiving enhanced residential care, an amount equal to at least $262.00 for each month beginning on or after January first, two thousand twenty-six.

* NB Effective December 31, 2026

* (d) for the period commencing January first, two thousand twenty-six, the monthly personal needs allowance shall be an amount equal to the sum of the amounts set forth in subparagraphs one and two of this paragraph:

(1) the amounts specified in paragraphs (a), (b) and (c) of this

subdivision; and

(2) the amount in subparagraph one of this paragraph, multiplied by the percentage of any federal supplemental security income cost of living adjustment which becomes effective on or after January first, two thousand twenty-six, but prior to June thirtieth, two thousand twenty-six, rounded to the nearest whole dollar.

* NB Effective until December 31, 2026

* (d) for the period commencing January first, two thousand twenty-seven, the monthly personal needs allowance shall be an amount equal to the sum of the amounts set forth in subparagraphs one and two of this paragraph:

(1) the amounts specified in paragraphs (a), (b) and (c) of this subdivision; and

(2) the amount in subparagraph one of this paragraph, multiplied by the percentage of any federal supplemental security income cost of living adjustment which becomes effective on or after January first, two thousand twenty-seven, but prior to June thirtieth, two thousand twenty-seven, rounded to the nearest whole dollar.

* NB Effective December 31, 2026

2. The personal allowance described in subdivision one of this section shall be made directly available to the individual for his own use in obtaining clothing, personal hygiene items, and other supplies and services for his personal use not otherwise provided by the residential facility. Any waiver of the right to a personal allowance by an individual entitled to it shall be void. The facility shall, for each such individual, offer to establish a separate account for the personal allowance. Each individual electing to utilize such an account shall be entitled to a statement upon request, and in any case quarterly, setting forth the deposits and withdrawals, and the current balance of the account. A facility shall not demand, require or contract for payment of all or any part of the personal allowance in satisfaction of the facility rate for supplies and services and shall not charge the individual or the account for any supplies or services that the facility is by law, regulation or agreement with the individual required to provide or for any medical supplies or services for which payment is available under medical assistance, pursuant to this title, medicare

pursuant to title XVIII of the federal social security act, or any third party coverage. Any service or supplies provided by the facility, charged to the individual or the account shall be provided only with the specific consent of the individual, who shall be furnished in advance of the provision of the services or supplies with an itemized statement setting forth the charges for the services or supplies. Whenever a resident authorizes an operator of a facility to exercise control over his or her personal allowance such authorization shall be in writing and subscribed by the parties to be charged. Any such money shall not be mingled with the funds or become an asset of the facility or the person receiving the same, but shall be segregated and recorded on the facility's financial records as independent accounts.

3. Any individual who has not received or been able to control personal allowance funds to the extent and in the manner required by this section may maintain an action in his own behalf for recovery of any such funds, and upon a showing that the funds were intentionally misappropriated or withheld to other than the intended use, for recovery of additional punitive damages in an amount equal to twice the amount misappropriated or withheld. The department may investigate any suspected misappropriation or withholding of personal allowance funds and may maintain an action on behalf of any individual to recover any funds so misappropriated, including any punitive damages. Any funds obtained as a result of such an action shall be disregarded in determining such individual's eligibility for or amount of benefits available pursuant to this chapter, to the extent permitted by federal law and regulation.

4. Each facility subject to the provisions of this section shall maintain in accordance with department regulations complete records and documentation of all transactions involving resident personal allowance accounts, and shall make such records available to the department and to any other agency responsible for the inspection and supervision of the facility upon request, with respect to any individual who is receiving additional state payments.

5. Any agency having supervisory responsibilities over any facility

subject to the provisions of this section shall, at the time of any inspection of such a facility, inquire into the furnishing of and accounting for resident personal allowances, and shall report any violations or suspected violations of this section to the department. The department shall have primary responsibility for monitoring the personal allowance requirements of this section; provided, however, that the department may by cooperative agreement delegate such monitoring and enforcement functions, in whole or in part, with respect to any facility, to any other state agency having supervisory responsibilities over such facility.

6. At the time an individual ceases to be a resident at the facility maintaining a resident personal allowance account on his behalf, the funds in such account shall be transferred to such individual or another appropriate individual or agency for use on his behalf, in accordance with department regulations.

7. Any facility subject to the provisions of this section shall assure that any income of an individual residing therein that not considered in determining such individual's eligibility for or amount of benefits under the program of additional state payments pursuant to title six of article five of this chapter, other than unearned income paid from non-public sources for the purpose of meeting the cost, in part or in whole, of such person's care and maintenance in such a facility, is treated in the same manner as the personal allowance required to be made available to the individual pursuant to this section.

8. In any case in which a person receives a payment of additional state payment benefits for a month other than the month in which the payment is received, the full monthly personal allowance for the months to which the payment is attributable shall be made available to the individual at such time as the payment has been received; in no event shall the facility be found to have failed to comply with the provisions of this section solely by reason of having failed to make such monthly personal allowance available prior to the time such payment is actually received.

9. In addition to any damages or civil penalties to which a person may be subject;

(a) any person who intentionally withholds a resident's personal allowance, or who demands, beneficially receives, or contracts for payment of all or any part of a resident's personal allowances in satisfaction of the facility rate for supplies and services shall be guilty of a class A misdemeanor;

(b) any person who commingles, borrows from or pledges any personal allowance funds required to be held in a separate account shall be guilty of a class A misdemeanor.