

310_675-15-3.1 Advance of funds to temporary manager

(a)

A temporary manager appointed by the Commissioner may request an advance of funds from the Department pursuant to 63 O.S. Supp. 2005 Section 1-1914.2(G) to assist in the continuation of care to facility residents if sufficient funds are not available from other sources. Continuation of care to facility residents may include closure of the facility and transfer of residents to another facility.

(b)

The temporary manager shall submit the request for an advance of funds to the Department on the form described in (c) of this section. The request shall include a demonstration to the Commissioner's satisfaction that funds are needed but not available from sources including but not limited to: (1) The facility's owner; (2) Revenues due from residents and third-party payers, including Medicare and Medicaid revenues; and (3) The facility's operating accounts.

(1)

The facility's owner;

(2)

Revenues due from residents and third-party payers, including Medicare and Medicaid revenues; and

(3)

The facility's operating accounts.

(c)

The application form for request of funds shall require the following: (1)

Documentation that the temporary manager has attempted to secure funds from other sources, including documentation showing that the temporary manager has made a funding request to the facility's owner; (2) Projections of the funds needed to support the facility's operations based on information reasonably available to the temporary manager such as the facility's financial records and/or cost reports filed with third-party payers; (3) An affidavit to be completed by the temporary manager if the owner fails to provide funds to the temporary manager as required by order of the Commissioner; and (4) A statement to be signed under oath by the temporary manager that the information provided in the application is true and complete.

(1)

Documentation that the temporary manager has attempted to secure funds from other sources, including documentation showing that the temporary manager has made a funding request to the facility's owner;

(2)

Projections of the funds needed to support the facility's operations based on information reasonably available to the temporary manager such as the facility's financial records and/or cost reports filed with third-party payers;

(3)

An affidavit to be completed by the temporary manager if the owner fails to provide funds to the temporary manager as required by order of the Commissioner; and

(4)

A statement to be signed under oath by the temporary manager that the information provided in the application is true and complete.

(d)

Upon receipt of a completed application that demonstrates to the Commissioner's satisfaction the unavailability of sufficient funds from other sources, the

Commissioner shall issue a written order with the following provisions: (1)

Direction to the facility owner to respond to the Department in writing and to make funds available to the temporary manager within 48 hours of issuance of the order;

(2) Notice to the facility owner that the owner's failure to provide sufficient funds shall result in action against the owner under the Nursing Home Care Act to suspend, revoke, and/or refuse to issue or renew the facility's license, and to impose an administrative penalty; (3) Notice to the facility owner of the provision in 63 O.S. Supp. Section 1-1914.2(G) that such advances by the Department if not repaid in full shall constitute a lien against any and all assets of the owner; and (4) Direction to the temporary manager to advise the Department immediately if funds are provided as required by the facility owner, and/or to submit to the Department the completed and sworn form confirming that funds were not provided to the temporary manager as ordered in (f)(1) of this section.

(1)

Direction to the facility owner to respond to the Department in writing and to make funds available to the temporary manager within 48 hours of issuance of the order;

(2)

Notice to the facility owner that the owner's failure to provide sufficient funds shall result in action against the owner under the Nursing Home Care Act to suspend, revoke, and/or refuse to issue or renew the facility's license, and to impose an administrative penalty;

(3)

Notice to the facility owner of the provision in 63 O.S. Supp. Section 1-1914.2(G) that such advances by the Department if not repaid in full shall constitute a lien against any

and all assets of the owner; and

(4)

Direction to the temporary manager to advise the Department immediately if funds are provided as required by the facility owner, and/or to submit to the Department the completed and sworn form confirming that funds were not provided to the temporary manager as ordered in (f)(1) of this section.

(e)

If the Commissioner determines that the Department will advance funds to the temporary manager, the amount of funds advanced by the Department shall not exceed one month of projected operating expenses for the facility.

(f)

The temporary manager shall notify the Department within 24 hours after a change in the information presented in the application, including changes in the operating budget or in the availability of funds from other sources.

(g)

The advance of funds pursuant to this section is solely at the discretion of the Commissioner. The request may be denied for reasons including but not limited to the Commissioner's assessment that the Department does not have discretionary funds adequate to support the request, that other funding sources are available to the temporary manager, or that the funds are not needed to support operation of the facility. The temporary manager has no right to funds from the Department.