



Management of Individual Finances

ODP's Roles and Responsibilities

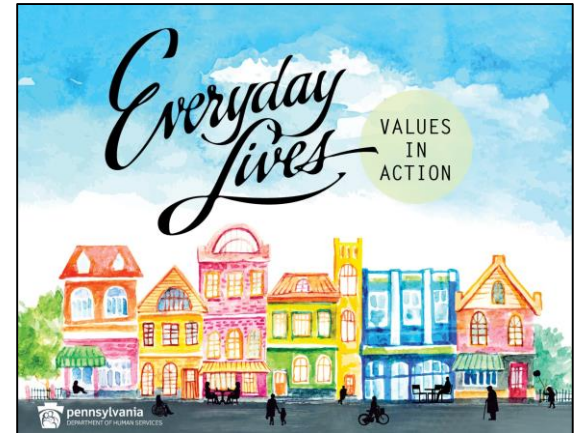
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This session will...

- Provide a brief recap of ODP's *Everyday Lives* values.
- Review the regulations that relate to choice and control in financial management.
- Discuss ODP's obligation to protect individuals from potentially-harmful financial choices with the obligation to protect individual rights.
- Provide guidance for how balance ODP's obligation to protect individuals from potentially-harmful financial choices with the obligation to protect individual rights.

Foundational Statement:

People with disabilities have the right to an Everyday Life; a life no different than that of all other citizens.



Values Statement:

I have the same rights as all other members of the community and I can fully use them. My family, supporters and community respect my rights.



EVERYDAY LIVES IN ACTION: MY LIFE, MY WAY

CONTROL: I have control over all areas of my life. My family, supporters, and community know these are my decisions and work with me to achieve greater control.

CHOICE: I decide everything about my life. My family, supporters, and community help me learn about opportunities and together we make them happen.

FREEDOM: I have the same rights as all other members of the community and I can fully use them. My family, supporters, and community respect my rights.



Regulatory Protections



§ 6400.22(b) The home's policy may not prohibit the individual's right to manage the individual's own finances.

§ 6100.183(d)

An individual has the right to manage and access the individual's finances

The meaning of these regulations is quite clear: providers **may not** restrict an individual's right to access and manage money.

Financial management is an integral part of an everyday life; prohibiting an individual from accessing or managing their money is **not consistent** with ODP's values.



§ 6100.182(d)

An individual shall be treated with dignity and respect.

§ 6100.182(e)

An individual has the right to make choices and accept risks.

These regulations also relate to financial management.

Presuming that someone cannot manage money just because they have a disability is undignified and disrespectful.

Any choice we make about how to spend money carries some level of risk; in some cases, the level of risk is high and may result in serious negative outcomes. Nevertheless, we still have the right to make high-risk decisions about financial management, regardless of whether we have a disability.



Given the above, ODP has a responsibility to ensure that individuals are able to manage their own money without limitation by the provider.



However...

We know that not all individuals with an intellectual disability or autism have the ability to fully understand the consequences of financial decisions.

Failure to acknowledge this could lead to individual harm.



Therefore...

ODP also has a responsibility to ensure that individuals are protected from harm that may result from decisions about managing money.



So...

How does ODP balance the responsibility to protect an individual's right to manage their money with the responsibility to protect an individual from harm?



4 Steps to Balancing Responsibility

1. Determine the individual's decision-making authority.
2. Determine the individual's ability to make informed financial decisions.
3. Ensure that individual was provided with facts necessary to make an informed choice and the potential consequences of each decision.
4. Apply risk-mitigation strategies to support making a decision that carries the least possible risk.



Step 1: Determine Decision-Making Authority

§ 6100.181. Exercise of rights.

- (d) A court's written order that restricts an individual's rights shall be followed.
- (e) A court-appointed legal guardian may exercise rights and make decisions on behalf of an individual in accordance with the conditions of guardianship as specified in the court order.
- (f) An individual who has a court-appointed legal guardian, or who has a court order restricting the individual's rights, shall be involved in decision-making in accordance with the court order.
- (g) An individual has the right to designate persons to assist in decision-making and exercising rights on behalf of the individual.

Is there a written court order that restricts the individual's right to manage their own finances?

- If there is a court order, then the order must be followed as written even if it is contrary to regulatory requirements.
- A copy of the court order must be obtained and reviewed to verify that is being interpreted properly.
- OGC must be consulted if there are any questions about the validity or content of the order.

Is there a court-appointed legal guardian who can make financial decisions on the individual's behalf?

- If there is a guardian, the guardian's wishes must be honored. Remember that the individual must be involved in the decision-making process to the fullest possible extent.
- A copy of the guardianship order must be obtained and reviewed to verify that the guardian has the authority to make financial decisions.
- OGC must be consulted if there are any questions about the validity or content of the order.

Has the individual designated anyone to assist with decisions about financial management?

If so, the designated person must be involved in decisions about financial management when desired by the individual.



Is there a written court order that restricts the individual's right to manage their own finances?

- Is there a court-appointed legal guardian who can make financial decisions on the individual's behalf?
- Has the individual designated anyone to assist in making decisions about financial management?



Step 2: Determine Ability to Make Financial Decisions



In general, information about ability to make financial decisions will be found in the assessment and the Individual Plan

§ 6400.181(e) - The assessment must include the following information:

(1) Functional strengths, needs and preferences of the individual.

(13) The individual's progress over the last 365 calendar days and current level in the following areas:

(vii) Financial independence

(viii) Managing personal property

§ 6100.223 - The individual plan must include the following:

- (1) The individual's strengths, functional abilities and need for services and supports.
- (2) The individual's preferences related to...income and savings
- (3) The individual's desired outcomes [relating to income and savings]
- (4) Service and support necessary to assist the individual to achieve the desired outcomes [[relating to income and savings]
- (5) The provider of the service and support [relating to income and savings]

Through a combination of the assessment and Individual Plan, one knows:

- The individual's strengths and weaknesses in the area of financial management.
- The individual's personal goals and desired outcomes relating to financial management, and their progress in achieving those goals.
- The services and supports necessary to achieve the goals and outcomes, and
- The person(s) responsible for providing the services and supports.

Assessments and Individual Plans
must be accurate, precise, and
person-centered!

It is much easier to avoid or resolve
financial management conflicts when
assessments and Individual Plans
are done well.



Step 3: Ensuring Informed Choice

ODP, providers, and formal supports cannot control an individual's choice.

However, we **can and must** ensure that the individual has all the facts needed to make an **informed choice**.

One of ODP's fundamental principles is recognizing that everyone can communicate.

Per § 6100.50. “written, oral and other forms of communication with the individual, and persons designated by the individual, shall occur in a language and means of communication understood by the individual or a person designated by the individual.”

Assuming or concluding that the facts needed to make an informed choice cannot be communicated to an individual because the individual is “nonverbal” or has other nontraditional communication needs is never acceptable.

To make informed financial choices, an individual must:

- Know the pros and cons of each decision. This could range from simple decisions (“if you spend your money on in-game purchases, it will take longer to save up for the new video game you want”) to more significant decisions (“if you don’t pay your court fines, it can lead to more serious legal issues”).

To make informed financial choices, an individual must:

- Be encouraged to examine why they want to make the decision; is this something you really want or need, or something you think you need because of an advertisement, peer pressure, etc.?

To make informed financial choices, an individual must:

- Receive guidance about how certain purchases may conflict with other goals unrelated to financial management. For example, if an individual strongly desires to lose weight, one could remind the individual that purchasing unhealthy snacks will inhibit or delay weight loss.

To make informed financial choices, an individual must:

- Be encouraged to make financial decisions that support other goals unrelated to financial management. Continuing with the above example: if an individual who strongly desires to lose weight is trying to decide between purchasing a television or an exercise bike, one could inform the individual that the exercise bike will help achieve their weight-loss goal.

To make informed financial choices, an individual must:

- Understand that certain financial decisions can lead to very serious consequences. Purchasing items on credit, misusing money meant for a specific purpose, or purchasing items that are illegal could impact the individual for the rest of their life.



Step 4: Risk Mitigation



Risk mitigation involves taking action to reduce a person's exposure to potential risks and reduce the likelihood or degree of a negative outcome associated with a given choice.

Transferring high-risk options to options with lower risk.

Example

John has received a windfall inheritance from his uncle. John has credit card debt accruing interest at a rate of 24%. He also has a personal loan accruing interest at a rate of 9%. John wants to use the inheritance to pay off the personal loan but should be encouraged to pay off the credit because there is a higher risk associated with delayed payment.

Educating individuals to more safely be exposed to the risk factor.

Example

Jane's friend has asked her to loan him a sizable amount of money. Jane is insistent that she wants to loan money to her friend. Jane should be encouraged to consider loaning a smaller amount of money to her friend and establishing specific terms for when and how the money will be repaid.



Open Discussion