

**COMMONWEALTH OF PENNSYLVANIA**  
**DEPARTMENT OF HUMAN SERVICES**  
**BUREAU OF HUMAN SERVICES LICENSING**  
**Assisted Living Residences** (55 Pa.Code Chapter 2800)

**Q/A - Regulatory Clarifications – January 2019**

*The clarifications and interpretations below will remain on the Department's web site until the information is included in the next updated Regulatory Compliance Guide (RCG).*

**Regulation: § 2800.28(e) - Refunds**

*§ 2800.28 (e) – In the event of the death of a resident under 60 years of age, the administrator shall refund the remainder of previously paid charges to the resident's estate within 30 days from the date the room is cleared of the resident's personal property. In the event of the death of a resident 60 year of age and older, the home shall provide a refund in accordance with the Elder Care Payment Restitution Act (35 P. S. § § 10226.101–10226.107). The home shall keep documentation of the refund in the resident's record.*

**Question:** In the event of a death of a resident, whether under or above 60 years of age, can a residence continue to charge the resident's estate until the resident's room is cleared of the resident's personal property?

**ANSWER:** For residents under 60 years of age, the residence may continue to charge until the room is cleared of the resident's personal property.

For residents above 60 years of age, residences must follow the requirements of the Elder Care Payment Restitution Act. Following the death of a resident, the residence will pay the personal representative or guardian of the resident the amount of the difference between any payment made and the cost of eldercare actually provided to the resident. This payment shall be made within 30 days from the date that the resident's bedroom is cleared of the resident's person property. If the resident contract does not distinguish the costs of care from other costs such as room and board, then the Department will cite a violation unless the residence refunds the total amount paid for food, shelter, and services for the period following the resident's death. No matter whether the Department cites a regulatory violation, the resident's personal representative or guardian may pursue the remedies available under the Elder Care Payment Restitution Act. See 35 P.S. § 10226.103(b). Assisted Living Residences should also be aware that noncompliance with the Elder Care Payment Restitution Act could lead to criminal penalties. See 35 P.S. § 10226.107. Residences are encouraged to

develop policies and practices that comply with the Elder Care Payment Restitution Act to address the conditions under which charges may continue to accrue after the death of the resident, as well as the provision of refunds.