



Pennsylvania

DEPARTMENT OF PUBLIC WELFARE
DEPARTMENT OF AGING
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OFFICE OF LONG-TERM LIVING BULLETIN

ISSUE DATE

04/09/10

EFFECTIVE DATE

04/09/10

NUMBER

05-10-01, 51-10-01, 52-10-01, 55-10-01, 59-10-01

SUBJECT

Incident Management Policy for Office of Long-Term Living (OLTL) Home and Community-Based Services Programs

BY

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Office of Long-Term Living

PURPOSE:

To develop a comprehensive incident management policy as part of the quality management system for the services delivered through OLTL waivers, Act 150, and the Options programs.

SCOPE:

To all Office of Long-Term Living (OLTL) Home and Community-Based Services (HCBS) program providers, Area Agency on Aging staff, and participants in OLTL programs.

BACKGROUND/DISCUSSION:

Presently, there is no policy related to uniform procedures for reporting incidents for OLTL Home and Community-Based Services (HCBS) Program participants. The lack of uniformity makes it difficult for each agency and the Office of Long-Term Living (OLTL) to ensure that critical incident remediation is handled satisfactorily, to collect aggregate data for quality improvement of the programs, and to monitor for risk management. This has been raised as a major concern by the Centers for Medicare and Medicaid Services (CMS) and addressed in the work plans for HCBS waivers upon renewal.

This directive provides the general policy for an incident reporting system. Detailed procedural guidance, investigation instructions, training, and a peer review process will be issued within 6 months of this policy directive. This policy is a component of OLTL's comprehensive system of collecting, analyzing, aggregating and reporting data on incidents.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

Office of Long-Term Living
Individual Support
Forum Place
555 Walnut Street
Harrisburg, PA 17101

Visit the Office of Long Term Living's Web site at www.dpw.state.pa.us/About/OLTL

This incident reporting process in does not substitute for the obligation of AAAs to receive and investigate Reports of Need under the Older Adults Protective Services Act (OAPSA), nor does it change the confidentiality requirements of OAPSA.

The policy replaces APD #09-01-01 and CSPPPD Contractor Directive 1999-12.

It is important to distinguish the difference between complaints and incidents, and there will be separate protocols and actions taken, depending on this distinction.

Complaints: Dissatisfaction with any aspect of program operations, activities, or services received or not received involving Home and Community-Based Services are considered complaints. All complaints should be directed to a participant's Service Coordinator, Care Manager or the supervisor of this employee. When issues are not able be resolved or a participant is not comfortable discussing with their Service Coordinator, Care Manager, or supervisor, the OLTL Quality Assurance Helpline is available at 1 (800) 757-5042. Concerns or complaints about services should not be reported as incidents.

Incidents: In the course of provision of home and community-based services, an incident is related to the following is considered reportable:

- 1) **Death, Injury, or Hospitalization** – any incident that occurred as a result of the provision of Home and Community- Based Services or lack of provision of documented services.
- 2) **Provider and Staff Misconduct** – deliberate, willful unlawful or dishonest activities related to the provision of Home and Community- Based Services.
- 3) **Abuse** – the infliction of injury, unreasonable confinement, intimidation, punishment, mental anguish, sexual abuse or exploitation on a participant.

Types of abuse include (but are not necessarily limited to):

- (a) physical abuse (a physical act by an individual that may cause physical injury to a participant);
- (b) psychological abuse (an act, other than verbal, that may inflict emotional harm, invoke fear and/or humiliate, intimidate, degrade or demean a participant);
- (c) sexual abuse (an act or attempted act such as rape, incest, sexual molestation, sexual exploitation or sexual harassment and/or inappropriate or unwanted touching on a participant); and,

(d) verbal abuse (using words to threaten, coerce, intimidate, degrade, demean, harass or humiliate a participant).

4) **Exploitation** – an act of depriving, defrauding or otherwise obtaining the personal property of a participant in an unjust or cruel manner, against one’s will, or without one’s consent or knowledge for the benefit of self or others.

5) **Neglect** – the failure to provide goods or services essential to avoid a clear and serious threat to the physical or mental health of a participant.

6) **Service interruption** -- Any event that results in temporary or permanent service interruption or termination by the provider agency or staff that may place the home and community-based service participant at risk. In the event of temporary or permanent service interruption or termination, the provider agency must have a plan for temporary stabilization.

Mandatory Reporting: It is mandatory that administrators and employees of home health care agencies¹ and facilities report incidents related to individuals who receive home and community-based services and supports in or from the agency or facility.

Participant Autonomy: In order to protect a participant’s autonomy and possible safety from an alleged perpetrator, reports of alleged incidents under the participant-employer model should only be made with the consent of the participant. Participants in any service model have the right to report alleged incidents at any time. Participants are encouraged to report incidents because failure to do so may put them at risk. However, participants are not compelled to report and no adverse consequences from OLTL will result from a participant’s decision not to report. Participants shall not be terminated or threatened with the loss of services because they file complaints or incident reports of any kind.

Further guidance is provided below on the documentation and reporting of incidents to OLTL. Failure to comply with this directive will result in remediation activities by OLTL.

¹ **"Home health care agency."** Any of the following: (1) A home health care organization or agency licensed by the Department of Health. (2) A public or private agency or organization, or part of an agency or organization, which provides care to a care-dependent individual in the individual's place of residence.

PROCESS:

It is the responsibility of all service providers and employees of the agency to report all alleged incidents to OLTL.

1) Determine if the incident is Reportable: A “reportable incident” is defined above. In order to respect individuals’ autonomy, participants have the right to not report incidents. Participants have the right to decline further interventions. If the participant declines further intervention, the investigation process will stop. The participant has the right to have an advocate present during any interviews and/or investigations resulting from an incident report.

2) Report Incident: Area Agencies on Aging (AAAs) with access to SAMS on Age Net for participant case management should continue to follow the SAMS incident reporting procedures issued by the Department of Aging, Office of Long Term Living in January, 2009. These procedures are available by reviewing the contents of the webinar that can be located on line at the following link:
<https://cc.readytalk.com/cc/playback/Playback.do?id=sthjvqdg>.

All other AAAs should electronically complete an Incident Report following the procedures below (see attached form).

All other providers: Complete the attached form in electronic format, sign and e-mail the report and any attachments (e.g., additional documentation, written reports sent to other agencies, etc.) to OLTL at: RA-Incident@state.pa.us, within the timeframes outlined under item 3, below.

3) Reporting Timeframes:

Within 24 Hours: All incidents where there is an interruption in services or the participant is at imminent risk, agency staff must notify OLTL and the appropriate agencies within 24 hours of the receipt of such incident.

Within 48 hours: All other incidents - agency staff shall notify OLTL and the appropriate OLTL designee(s) within 48 hours.

Appropriate agencies include:

- Office of Long-Term Living (OLTL)
- Provider Agency and/or Subcontractor
- Service Coordination Agency/ Area Agency on Aging

- Older Adult Protective Services (OAPSA); if the alleged incident involves abuse, neglect or exploitation of an individual age 60 or older
- Disability Rights Network of PA (DRN); If requested by the participant, the provider and OLTL will release information about the alleged incident
- Law Enforcement, Fire Department or other authorities as needed

4) Participant Access to Information about Incident: The incident must be disclosed and explained to the participant in a cognitively and linguistically accessible format within 24 hours.

5) Follow-up to OLTL: A follow-up to the incident report must be forwarded within five days of the initial report to the OLTL HCBS Program manager. The follow-up should provide information related to the disposition of the incident report.

6) Employee Removal or Suspension: Cases involving an agency and/or participant-directed employee may require the employee to be removed from the program. This includes requiring that the employee have no contact with the participant, or suspending the employee until the investigation is completed. If the employee works for an agency, suspension may be with or without pay based upon the circumstances and the alleged incident and the employment policies of that agency. If the employee works for a participant-directed employer, suspension should be at the discretion of the participant. If the participant suspends the employee, the suspension will be without pay regardless of the circumstances and the alleged offense.

7) Notification to Participant: The participant shall receive notification of the results of the investigation and his or her right to challenge the results and/or state that he/she does not agree with the results and will have the ability to include comments/corrections. All information must be provided in a cognitively and linguistically accessible format.

The participant shall have the right to an unbiased, confidential review process. The participant has the right to have an advocate present during any interview questioning.

8) Confidentiality: All information gathered as a result of an investigation of an alleged incident involving a participant is confidential.

Guidance for Incidents that are also the subject of an Older Adults Protective Services Report of Need

If a AAA receives an Older Adults Protective Services Report of Need about a participant currently receiving services under the Aging Waiver or Options program, the Older Adults Protective Services Supervisor should notify that participant's Case Manager at the AAA and provide enough information for the Case Manager to write a brief description of the allegations for the Incident Report. The Case Manager submitting the Incident Report should **not** provide the names of the OAPSA Reporter, cooperating witnesses, or any Alleged Perpetrator, or provide details of the Older Adult Protective Services investigation on the Incident Report. The Incident Report should only communicate the general nature of the allegations, document that the case is being handled by the AAA's Protective Services staff, and note any changes to services, the participant's residence, caregivers, or other issues relevant to Case Management and services that occurred as a result of the Older Adults Protective Services case. If further information about the Older Adults Protective Services case is required for purposes of quality management, OLTL will consult with the Department of Aging's Division of Consumer Protection.

There is no obligation for AAA Older Adults Protective Services to complete the full investigation required by OAPSA and its regulations within the five business days stated above for reporting on the resolution of the incident.

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