

Abuse and Neglect

Office of Long-Term Living
Protective Services
Service Coordinator Webinar
September 2013

Protective Services

AGENDA

- What is the Purpose of This Webinar?
- What is Abuse?
- Protective Services Laws (OAPSA and APS)
- Mandated Reporters
- APS Implementation
- Transition Phase
- Reporting Requirements
- Stop it Before it Happens

What is Abuse and Neglect?

Abuse:

Infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish

Willful deprivation by a caregiver of goods or services which are necessary to maintain physical or mental health

Sexual harassment or rape

Neglect:

The failure to provide for oneself or the failure of a caregiver to provide goods, care or services essential to avoid clear and serious threat to the physical or mental health of an adult

What is Exploitation and Abandonment?

Exploitation

An act or course of conduct by a caregiver or other person against an adult or an adult's resources, without the informed consent of the adult or with consent obtained through misrepresentation, coercion or threats of force, that results in monetary, personal or other benefit, gain or profit for the perpetrators or monetary or personal loss to the adult.

Abandonment

The desertion of an adult by a caregiver.

Older Adults Protective Services Act (OAPSA) and Adult Protective Services Act (APS)

Both Acts:

- Provide for the detection, prevention, reduction and elimination of abuse, neglect, exploitation and abandonment
- Require a program of protective services for adults in need of them
- Require a uniform statewide reporting and investigative system
- Prescribe penalties
- Utilize least restrictive alternatives and ensure services are provided in the most integrated setting

Legislative provisions of both laws

- Adults who lack capacity and are at imminent risk must have access to services necessary to protect their health, safety and welfare
- Adults have the right to make choices even when those choices present risks to themselves or their property
- Adults have the right to refuse some or all protective services
- Information should be provided in a safe place and understandable manner
- Services shall be in the least restrictive environment, most integrated setting and encourage consumer choice

OAPSA

- OAPSA was enacted to provide protective services to individuals age 60 and over
- Provides legal authority to investigate cases of abuse, neglect or exploitation and abandonment
- Pennsylvania Department of Aging administers at state level (funding, oversight)
- Area Agencies on Aging implement at the local level (intake, investigation and services)

What to do? (OAPSA)

If the adult is age 60 or over and you suspect abuse:

- Call 911 if the person is in immediate danger
- Call the Area Agency on Aging (AAA) or the Statewide Elder Abuse Hotline 1-800-490-8505
- File an incident report in SAMS for Aging Waiver participants
- File an incident report in EIM for over 60 participants in other waivers
- Cooperate with OAPSA

- In 2010, Act 70 was enacted to provide protective services to adults between the ages of 18 – 59
- Prior to 2010, there was no legal authority to investigate cases of abuse, neglect, exploitation or abandonment of persons with disabilities between the ages of 18 – 59
- DPW is responsible to implement the program
- APS is similar to OAPSA

Who is covered under the law?

Adults with disabilities who are alleged victims of abuse, neglect, exploitation and abandonment.

Adult – “A resident of this Commonwealth between 18 and 59 years of age who has a physical or mental impairment that substantially limits one or more major life activities.”

Who can investigate allegations and provide services?

- 301 – DPW shall work with Aging
- 301 – DPW may perform any duty granted to an agency until an agency is selected and operational
- 301 – Agencies shall be selected via a competitive bidding process

APS Implementation

- A vendor will be procured to operate the APS program no sooner than July of 2014
- Once a vendor(s) is selected and in place, there will be one number to call for APS reports
- During the transition phase, OLTL, ODP and OMHSAS will investigate their active consumers until at least July of 2014
- Investigations for non-participants will be handled by participating AAAs and subcontractors during the transition phase

Mandated reporters (APS)

- An employee or administrator of a facility who has reason to suspect that a recipient is a victim of abuse or neglect shall make an oral report to the local adult protective services agency.
- If an employee is alleged to have committed abuse, the facility shall immediately suspend the employee or where appropriate, utilize a plan of supervision if such plan is approved by the APS agency and applicable state licensing agency.

Mandated Reporters of APS (cont.)

Facility employees (contracted or direct) include:

- Assisted Living Facility
- Domiciliary Care Home
- Home Health Care Agency
- Intermediate Care Facility for Individuals with Intellectual Disabilities
- Nursing Home
- Older Adult Daily Living Center
- Personal Care Home
- Residential Treatment Facility
- **An organization or group of people that use public funds and is paid, in part, to provide care and support to adults in a licensed or unlicensed setting**

Transition Phase Reporting Requirements

What do you do if you suspect abuse or neglect of an OLTL waiver participant?

- Call 911 if the individual is in a life threatening situation
- Take action to secure the safety of the individual
- Contact your OLTL Regional Supervisor
- Investigate allegations
- Determine the need for follow-up or revision of the current service plan
- Document concerns and actions taken to protect the adult in the Electronic Incident Management (EIM) System or SAMS, whichever is appropriate

Transition Phase Reporting Requirements (cont)

- OLTL Service Coordinators should immediately contact law enforcement officials when suspected abuse or neglect is one of the following:
 - Sexual abuse
 - Serious injury
 - Serious bodily injury
 - Suspicious death
- Upon a receipt of a report, the Acts require law enforcement officials to conduct an investigation to determine if criminal charges will be filed.

Transition Phase Reporting Requirements (cont)

Report suspected abuse and neglect to the appropriate licensing agency.

- **Department of Public Welfare** (Personal Care Homes, Assisted Living Residences)
Office of Administration, Bureau of Human Services Licensing
1-877-401-8835
- **Department of Health** (Nursing Facilities)
Division of Nursing Care Facilities
1-800-254-5164

Transitional Phase Reporting Requirements (cont)

If the individual is NOT receiving services:

In those cases in which the reporter does not know what the person's disability is or the person is not served by a program office, contact local law enforcement in order to assure the individual's safety.

Local police department contact information is available at

<http://www.usacops.com/pa>

State police county contact information is available at

<http://www.portal.state.pa.us/portal/server.pt?open=512&objID=4451&&PageID=452879&level=2&css=L2&mode=2>

Additional Resources

- **Office of Developmental Programs**
DPW Customer Service Line at 1-888-565-9435
- **Office of Mental Health and Substance Abuse Services**
Consumer Information Line at 1-877-356-5355
- **ChildLine**
If the individual is under the age of 18, child protective services are available at 1-800-932-0313.

STOP IT BEFORE IT HAPPENS

At-Risk Behavior

- Examples of At-Risk Behavior:

- Smoking while using oxygen
- Refusal to take essential medications
- Illegal drug use
- Refusal to be turned or have wounds cared for

- Right to Take Risks:

- Participants in OLTL waivers who are capable of making decisions about their services and supports can take risks.
- The Individual Service Plan allows for a participant to not agree to risk mitigation.

- When Risk is no longer a Right:

- Taking risk is *not* acceptable when the participant's own life or the lives of others are jeopardized by the at-risk behavior.

Mitigating Risk

Strategies to Mitigate Risk:

- Ensure that all services on the participant's service plan are being provided.
- On your quarterly monitoring calls and visits ask questions like –
 - Have you been in the hospital since we last talked?
 - Are you getting the services that are in your service plan?
 - If you notice bruises or untreated pressure sores, ask about them.
 - Ask questions, even if they are embarrassing to you or the participant.
 - If a relative or worker are in the room and you sense something isn't right, ask them to leave and talk in private to the participant.
- Ask your supervisor for assistance.
- Call your regional supervisor for assistance.