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CHAPTER 14: CHILDREN'S CHOICE

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SECTION 14.10: INCIDENTS, ACCIDENTS AND COMPLAINTS

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PAGE(S) 4

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**INCIDENTS, ACCIDENTS AND COMPLAINTS**

The support coordination agency and direct service provider are responsible for ensuring the health and safety of the beneficiary. Support coordination and direct service staff must report all incidents, accidents, or suspected cases of abuse, neglect, exploitation or extortion to the on-duty supervisor immediately and as mandated by law to the appropriate agency. Reporting an incident only to a supervisor does not satisfy the legal requirement to report. The supervisor is responsible for ensuring that a report or referral is made to the appropriate agency.

All suspected cases of abuse (physical, mental, and/or sexual), neglect, exploitation or extortion must be reported to the appropriate authorities. (See Appendix C for contact information).

If the beneficiary needs emergency assistance, the worker shall call 911 or the local law enforcement agency.

Any other circumstances that place the beneficiary's health and well-being at risk should also be reported.

Support coordination agencies and direct service providers are responsible for documenting and maintaining records of **all** incidents and accidents involving the beneficiary. The Office for Citizens with Developmental Disabilities (OCDD) *Critical Incident Reporting, Tracking and Follow-up Activities for Waiver Services* procedures must be followed for all reporting, tracking and follow-up activities of all critical incidents. Non-compliance shall result in administrative actions as indicated in this document. (See Appendix D for information on obtaining a copy of this document).

**Internal Complaint Policy**

Beneficiaries/guardians must be able to file a complaint regarding services without fear of reprisal. The provider shall have a written policy to handle beneficiary/guardian complaints. In order to ensure that the complaints are efficiently handled, the provider shall comply with the following procedures:

1. Each provider shall designate an employee to act as a complaint coordinator to investigate complaints. The complaint coordinator shall maintain a log of all complaints received. The complaint log shall include the date the complaint was made, the name and telephone number of the complainant, nature of the complaint and resolution of the complaint;
2. If the complaint is verbal, the provider staff member receiving the complaint must obtain and send all pertinent information in writing to the provider complaint coordinator. If

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CHAPTER 14: CHILDREN'S CHOICE

---

SECTION 14.10: INCIDENTS, ACCIDENTS AND COMPLAINTS

---

PAGE(S) 4

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the beneficiary/guardian completes the complaint form, the provider staff will be responsible for sending the form to the provider complaint coordinator;

3. The complaint coordinator shall send a letter to the complainant acknowledging receipt of the complaint **within five working days**;
4. The complaint coordinator must thoroughly investigate each complaint. The investigation includes, but is not limited to, gathering pertinent facts from the beneficiary/guardian, the worker, and other interested parties. These contacts may be either in person or by telephone. The provider is encouraged to use all available resources to resolve the complaint at this level and shall include the on-site program manager. For issues involving medical or quality of care issues, the on-site program manager must sign the resolution;
5. The provider's administrator or designee must inform the beneficiary and/or the personal representative in writing **within 10 working days** of receipt of the complaint, the results of the internal investigation; and
6. If the beneficiary/guardian is dissatisfied with the results of the internal investigation regarding the complaint, he/she may continue the complaint resolution process by contacting the regional OCDD Waiver Services and Supports Office or Human Services Authority or District in writing, or by telephone.

If the complainant's name and address are known, the OCDD will notify the complainant **within two working days** that the complaint has been received and action on the complaint is being taken.

**Complainant Disclosure Statement**

La. R.S. 40:2009.13 – 40:2009.21 sets standards for identifying complainants during investigations in nursing homes. The Bureau is mandated to use these standards for use within the Home and Community-Based Services waiver programs. When the substance of the complaint is furnished to the service provider, it shall not identify the complainant or the beneficiary unless he/she consents in writing to the disclosure. If the disclosure is considered essential to the investigation or if the investigation results in judicial proceeding, the complainant shall be given the opportunity to withdraw the complaint.

The OCDD may determine when the complaint is initiated that a disclosure statement is necessary. If a Complainant Disclosure Statement is necessary, the complainant must be contacted and given an opportunity to withdraw the complaint.

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**CHAPTER 14: CHILDREN'S CHOICE**

---

**SECTION 14.10: INCIDENTS, ACCIDENTS AND COMPLAINTS**

---

**PAGE(S) 4**

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If the complainant still elects to file the complaint, the OCDD will mail or FAX the disclosure form to the complainant with instructions to return it to the OCDD Central Office.

**Definitions of Related Terms Regarding Incidents and Complaints**

The following definitions are used in the incident and complaint process:

1. Abuse – Any of the following acts which seriously endanger the physical, mental, or emotional health and safety of a child including:
  - a. The infliction or attempted infliction, or as a result of inadequate supervision, the allowance or toleration of the infliction or attempted infliction of physical or mental injury upon a child by a parent or by any other person;
  - b. The exploitation or overwork of a child by a parent or by any other person; and
  - c. The involvement of a child in any sexual act with a parent or with any other person, or the aiding or toleration by a parent or the caretaker of the child's sexual involvement with any other person, or the child's involvement in pornographic displays, or any other involvement of a child in sexual activity constituting a crime under the laws of this state. (Louisiana Children's Code Article 1003).
2. Allegation of noncompliance - is an accusation that an event has occurred or is occurring that has the potential for causing no more than minimal harm to a beneficiary or beneficiaries (La. R.S. 40:2009.14);
3. Complaint - an allegation that an event has occurred or is occurring and has the potential for causing more than minimal harm to a beneficiary (La. R.S. 40:2009.14);
4. Disabled person - is a person with a mental, physical, or developmental disability that substantially impairs the person's ability to provide adequately for his/her own care or protection;
5. Incident - any situation involving a beneficiary that is classified in one of the categories listed in this section, or any category of event or occurrence defined by

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**CHAPTER 14: CHILDREN'S CHOICE**

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**SECTION 14.10: INCIDENTS, ACCIDENTS AND COMPLAINTS**

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**PAGE(S) 4**

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OCDD as a critical event, and has the potential to impact the beneficiary or affect delivery of waiver services;

6. Minimal harm - is an incident that causes no serious temporary or permanent physical or emotional damage and does not materially interfere with the beneficiary's activities of daily living (La. R.S. 40:2009.14); and
7. Trivial report - is an account of an allegation that an incident has occurred to a beneficiary or beneficiaries that causes no physical or emotional harm and has no potential for causing harm to the beneficiary or beneficiaries (La. R.S. 40:2009.14).