
CHAPTER 14: CHILDREN'S CHOICE

SECTION 14.10: INCIDENTS, ACCIDENTS, AND COMPLAINTS

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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).

Note: It is the policy of the Louisiana Department of Health (LDH), OCDD that all critical incidents for home and community-based services (HCBS) be reported, investigated and tracked. The statewide incident management system **MUST** be used for **ALL** critical incident reporting.

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, the nature of the

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complaint and the 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 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 of the results of the internal investigation, in writing, and **within 10 working days** of receipt of the complaint; 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 the local governing entity (LGE) 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.

OCDD may determine when the complaint is initiated that a disclosure statement is necessary. If

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a Complainant Disclosure Statement is necessary, the complainant must be contacted and given an opportunity to withdraw the complaint.

If the complainant still elects to file the complaint, 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. 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. Exploitation or overwork of a child by a parent or by any other person; and
 - c. 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, *et seq.*).
2. Allegation of noncompliance - 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 - 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/person with disabilities - Person with a mental, physical, or developmental disability that substantially impairs the person's ability to provide adequately for their 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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OCDD as a critical event, and has the potential to impact the beneficiary or affect delivery of waiver services;

6. Minimal harm - 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 - 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).