
CHAPTER 26: ICF/DD SERVICES

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COMPLAINTS

It is the Department's responsibility to offer protection and relief from abuse to recipients in institutions. This is a responsibility that the Department takes seriously and to that end has instituted a series of procedures to follow in reporting and preventing the abuse and neglect of recipients. The following procedures are established for receiving, evaluating, investigating, and correcting grievances concerning recipient care, and for the mandatory reporting of abuse and neglect in ICF/DDs.

Applicability

Any person having knowledge of alleged abuse or neglect of a recipient or a recipient being denied care or treatment may submit a complaint, preferably in writing. Any person may submit a complaint if he/she has knowledge that a state law, standard, rule, regulation, correction order, or certification rule issued by the Department of Health and Hospitals has been violated.

Duty to Report Abuse and Neglect

All incidents or allegations of abuse and/or neglect must be reported by telephone or FAX within 24 hours to BHSF/Health Standards Section. Within five working days the facility must submit the results of the internal investigation to Health Standards with a copy of all pertinent documents attached. The facility maintains the original documents. Failure to comply with this requirement could result in a deficiency and/or sanction. Those who must make a report of abuse and/or neglect are:

- Physicians or other allied health professionals,
- Social services personnel,
- Facility administration,
- Psychological or psychiatric treatment personnel,
- Registered Nurses,
- Licensed Practical Nurses, and
- Direct care staff.

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Penalties for Failure to Make a Complaint

Any person who knowingly and willfully fails to report an abuse or neglect situation or files a false report shall be fined not more than \$500.00 or imprisoned not more than two months or both.

Penalties for committing cruelty or negligent mistreatment to a recipient of ICF/DD services shall be fined not more than \$10,000.00 or imprisoned with or without hard labor for more than 10 years, or both.

Where to Submit a Complaint

Complaints involving recipients of all ages in institutions received by DHH shall be referred to the Bureau of Health Services Financing Health Standards Section. (Refer to Appendix C for contact information.) Complaints may also be submitted to any local law enforcement agency.

Disposition of Complaints

If it has been determined that complaints involving alleged violations of any criminal law concerning an ICF/DD are valid, the investigating office of DHH shall furnish copies of the complaints for further investigation to both the Medicaid Fraud Control Unit of the Louisiana Department of Justice and the local office of the district attorney.

Valid Complaint

The Department of Health and Hospitals shall notify the administrator who must provide an acceptable plan of correction as specified below:

- If a situation presents a threat to the health and safety of the recipients, the ICF/DD shall be required to take immediate corrective action. DHH may certify non-compliance and initiate termination, revocation or suspension of the license, or impose sanctions.
- In all other violations, an expeditious correction, not to exceed 90 days, shall be required. If the provider is unable or unwilling to correct the violation, DHH may certify non-compliance and initiate termination, non-renewal, or impose sanctions.

In cases of abuse and/or neglect, referral for appropriate corrective action shall be made to the Medicaid Fraud Control Unit of the Attorney General's Office.

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Unsubstantiated Complaint

DHH shall notify the complainant and the facility of the finding.

Repeat Violations

When violations continue to exist after the corrective action was taken, DHH may take appropriate action including decertification or revocation of the facility's license.

Follow-up Activity

Facilities with deficiencies will be scheduled for follow-up visits as soon as possible after the approved provider completion date on the plan of correction.

Results of Complaint Investigation

The results of the complaint investigation will be considered in conducting annual surveys and making certification decisions.

Informal Reconsideration

A complainant or a facility dissatisfied with DHH's response to the complaint investigation may request an informal reconsideration.

Retaliatory actions against complainants are prohibited. Persons aware of retaliatory action or threats in this regard should contact DHH.

Reporting of Incidents

For recipients involved in an accident or incident, an incident report shall be completed. This report shall include the name, date, time, details of accident or incident, circumstances under which it occurred, witnesses and action taken. Incident reports are an administrative tool to pinpoint problem areas and shall result in corrective action. These reports shall be made available to representatives of the U. S. Department of Health and Human Services and DHH.

Incidents or accidents involving recipients and all other pertinent information must be documented in the recipient's record.

The examples listed below are not all-inclusive, but are presented to assist facility employees in completing incident reports.

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- **Suspicious Death** - Death of a recipient or on-duty employee when there is suspicion of death other than by natural causes.
- **Abuse and/or Neglect** - All incidents or allegations of abuse and/or neglect.
- **Runaways** - Runaways considered being dangerous to self or others.
- **Law Enforcement Involvement** - Arrest, incarceration, or other serious involvement of recipients with law enforcement authorities.
- **Mass Transfer** - The voluntary closing of a facility or involuntary mass transfer of recipients from a facility.
- **Violence** - Riot or other extreme violence.
- **Disasters** - Explosions, bombings, serious fires.
- **Accidents/Injuries** - Severe accidents or serious injury involving recipients or on-duty employees caused by recipients such as life threatening or possible permanent and/or causing lasting damage.