
CHAPTER 26: ICF/IID SERVICES

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COMPLAINTS

It is the responsibility of the Department of Health (LDH) to offer protection and relief from abuse to beneficiaries in institutions. This is a responsibility that LDH takes seriously, and to that end, has instituted a series of procedures to follow in reporting and preventing the abuse and neglect of beneficiaries. The following procedures are established for receiving, evaluating, investigating, and correcting grievances concerning beneficiary care, and for the mandatory reporting of abuse and neglect in intermediate care facilities for individuals with intellectual disabilities (ICF/IID).

Applicability

Any person having knowledge of alleged abuse or neglect of a beneficiary or a beneficiary being denied care or treatment may submit a complaint, preferably in writing. Any person may submit a complaint if they have knowledge that a state law, standard, rule, regulation, correction order, or certification rule issued by LDH 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 Bureau of Health Services Financing (BHSF)/Health Standards Section (HSS). The facility shall investigate all allegations of abuse and neglect and report results of such investigation to the HSS within the prescribed timeframe in accordance with licensing regulations. Copies of all pertinent documents shall be made available to the HSS as required and/or requested. Failure to comply with this requirement could result in a deficiency and/or imposition of a sanction. Those who must make a report of abuse and/or neglect are:

1. Physicians or other allied health professionals;
2. Social services personnel;
3. Facility administration;
4. Psychological or psychiatric treatment personnel;
5. Registered nurses;
6. Licensed practical nurses; and
7. Direct or indirect care staff who have knowledge of abuse or neglect of a resident of the facility.

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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 beneficiary of ICF/IID 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 beneficiaries of all ages in institutions received by LDH shall be referred to the BHSF HSS. 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/IID are valid, the investigating office of LDH shall furnish copies of the complaints for further investigation to both the Medicaid Fraud Control Unit (MFCU) of the Louisiana Department of Justice, Attorney General's Office and the local office of the district attorney.

Substantiated Complaint

LDH shall notify the administrator who must provide an acceptable plan of correction as specified below:

1. If a situation presents a threat to the health and safety of the beneficiaries, the ICF/IID shall be required to take immediate corrective action. LDH may certify non-compliance and initiate termination, revocation or suspension of the license, or impose sanctions; and
2. 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, LDH 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 MFCU.

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1. Unsubstantiated Complaint:

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

2. Repeat Violations:

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

3. 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.

4. Results of Complaint Investigation:

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

Informal Reconsideration

A complainant or a facility dissatisfied with LDH'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 LDH.

Reporting of Incidents

For beneficiaries involved in an accident or incident, an incident report shall be completed. This report shall include:

1. Name;
2. Date;
3. Time;
4. Details of the accident or incident;

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5. Circumstances under which the accident or incident occurred;
6. Witnesses; and
7. 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 LDH.

Incidents or accidents involving beneficiaries must be documented in the beneficiary's record with all pertinent information.

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

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