State of West Virginia Department of Human Services

Adult Protective Services Policy

Bureau for Social Services

Revised June 2025

SECTION 1 - INTRODUCTION AND OVERVIEW

1.1 Mission, Vision, and Values

The Bureau for Social Services promotes the safety, permanency, and well-being of children and vulnerable adults, supporting individuals to succeed and strengthening families. Our vision is for all West Virginia families to experience safe, stable, healthy lives and thrive in the care of a loving family and community. Our values include professionalism, integrity, excellence, relationships, and staff contributions.

1.2 Introduction

Adult Protective Services (APS) policy sets forth the philosophical, legal, practice, and procedural issues which currently apply to APS in West Virginia. This material is based upon a combination of requirements from various sources including but not limited to social work standards of practice, accepted theories and principles of practice relating to services for vulnerable adults, chapter 9 of the West Virginia Code, and case decisions made by the Supreme Court of Appeals of West Virginia.

1.3 Philosophical Principles

APS workers uphold the right to self-determination of all clients. It is of the utmost importance to enhance capacity and allow vulnerable adults to address their own needs. When working with vulnerable adults, APS workers shall ensure that the adult's rights, as guaranteed under the Fourteenth Amendment of the United States Constitution and Article III of the West Virginia Constitution, are not infringed upon unnecessarily.

Client's Consent

APS **investigations** are not voluntary; however, the client's consent must be obtained before **case management services** are provided, unless the consent cannot be obtained, such as when the client is in an emergency situation and appears to meet the definition of a vulnerable adult:

- is unwilling to remove themselves from danger; or
- is unwilling to be removed by others.

If the APS worker is unable to reduce the resistance in any of these situations, it may be necessary to pursue legal action to provide needed intervention. Because of these varied and complex considerations, it is vital that the department be able to proceed in a timely manner but also with sensitivity, understanding, and knowledge when intervening with adults. Whenever the department becomes involved, the intervention provided must be least restrictive and be appropriate to meet the needs of the individual while assuring the highest degree of autonomy and self-determination possible. Meeting all these requirements frequently calls for maintaining a delicate and skillful balance by the APS worker.

1.4 Statutory Basis

Adult Protective Services is governed by W. Va. Code §9-6-1 *et seq*. Excerpts from Chapter 9 regarding these obligations are included within this policy; however, reference should be made to the entire chapter and to the following chapters:

- Chapter 16- Public Health
- Chapter 27- Mentally Ill Persons
- Chapter 32- Uniform Securities Act
- Chapter 39B-Uniform Power of Attorney Act
- Chapter 44A – West Virginia Guardianship and Conservatorship Act
- Chapter 48- Domestic Relations
- Chapter 55- Actions, Suits, and Arbitrations
- Chapter 61- Crimes and Their Punishments

1.5 General Definitions

Term	***Definition***
Abuse	The infliction or threat of physical or psychological harm, including the use of undue influence or the imprisonment of any vulnerable adult or facility resident. See, W. Va. Code §9-6-1
Adult Protective Services	Services provided to vulnerable adults and may include, but are not limited to, services such as: a. Receiving reports of adult abuse, neglect, or exploitation. b. Investigating the reports of abuse, neglect, or exploitation. c. Case planning, monitoring, evaluation, and other case work and services; and, d. Providing, arranging for, or facilitating the provision of medical, social service, economic, legal, housing, law enforcement, or other protective, emergency, or support services. See, W. Va. Code §9-6-1
Adult Protective Services agency	Any public or nonprofit private agency, corporation, board or organization furnishing protective services to adults. See, W. Va. Code §9-6-1
Basic needs	The essential requirements necessary to sustain life, health and well-being such as food, clothing, shelter, and necessary medical care.

Caregiver	An individual who is responsible for the care of a vulnerable adult or a facility resident, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law, and means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) compensated or uncompensated care to an adult with disabilities or a facility resident who needs supportive services in any setting. See, W. Va. Code §9-6-1
Comprehensive Child Welfare Information System (CCWIS)	The automated client information system used by the West Virginia Department of Human Services, Bureau for Social Services.
Critical incident	A reasonable suspicion that a fatality or near fatality was caused by abuse or neglect or when abuse or neglect has been determined to have led to a vulnerable adult's death or near death.
Diminished capacity	The inability to address, avoid, prevent or stop financial exploitation because of physical, mental, or emotional conditions. See, W. Va. Supreme Court Rules of Practice and Procedure for Financial Exploitation Civil Proceedings
Domestic violence	The occurrence of one or more of the following acts between family or household members: (1) attempting to cause or intentionally, knowingly or recklessly causing physical harm to another with or without dangerous or deadly weapons; (2) placing another in reasonable apprehension of physical harm; (3) creating fear of physical harm by harassment, psychological abuse or threatening acts; (4) committing either sexual assault or sexual abuse as those terms are defined in W.Va. Code §§61-8b-1, et seq. and 61-8d-1, et seq.; and (5) holding, confining, detaining or abducting another person against that person's will. See, W. Va. Code §48-27-202
Elder	A person aged 65 years or older. See, W. Va. Code §61-2-29
Emancipated minor	A child over the age of 16 who has been emancipated by: 1) Order of the court based on a determination that the child can provide for their physical well-being and has the ability to make decisions for themselves or 2) marriage of the child. An emancipated minor has all the privileges, rights and duties of an adult including the right to contract. See, W. Va. Code §49-4-115
Emergency or emergency situation	A situation or set of circumstances which presents a substantial and immediate risk of death or serious injury to a vulnerable adult.

Facility or nursing home	Any institution, residence, intermediate care facility for individuals with an intellectual disability, care home or any other adult residential facility, or any part or unit thereof, that is subject to the provisions of W. Va. Code §16-5C-1 et seq., §16-5D-1 et seq., §16-5E-1 et seq., or §16-5H-1 et seq. See, W. Va. Code §9-6-1
Facility resident	An individual living in a nursing home or other facility, as that term is defined in subdivision (9) of this section. See, W. Va. Code §9-6-1
Family or household Member	Current or former spouses, persons living as spouses, persons who formerly resided as spouses, parents, children and stepchildren, current or former sexual or intimate partners, are or were dating, other persons related by blood or marriage, persons who are presently or in the past have resided or cohabitated together or a person with whom the victim has a child in common. See, W. Va. Code §48-27-204
Fiduciary	A person or entity with the legal responsibility to make decisions on behalf of and for the benefit of another person; to act in good faith and with fairness; and includes a trustee, a guardian, a conservator, an executor, or an agent under a financial power of attorney. See, W. Va. Code §9-6-1
Financial exploitation	The intentional misappropriation, misuse, or use of undue influence to cause the misuse of funds or assets of a vulnerable adult or facility resident but does not apply to a transaction or disposition of funds or assets where a person made a good faith effort to assist the vulnerable adult or facility resident with the management of his or her money or other things of value. See, W. Va. Code §9-6-1
Human Trafficking	Knowingly recruiting, transporting, transferring, harboring, receiving, providing, obtaining, isolating, maintaining, or enticing an individual to engage in debt bondage, forced labor, or sexual servitude. See, W. Va §61-14-1.
Imminent danger	Circumstances exist which indicate the immediate threat of death or serious physical injury.
Incapacity	The inability because of physical or mental impairment to appreciate the nature and implications of a health care decision, to make an informed choice regarding the alternatives presented, and to communicate that choice in an unambiguous manner. See, W. Va. Code §16-30-3
Legal representative	A person lawfully invested with the power and charged with the duty of taking care of another person or with managing the property and rights of another

	person, including, but not limited to, a guardian, conservator, medical power of attorney, trustee, or other duly appointed person. See, W. Va. Code §9-6-1
Neglect	The unreasonable failure by a caregiver to provide the care necessary to maintain the safety or health of a vulnerable adult or self-neglect by a vulnerable adult, including the use of undue influence by a caregiver to cause self-neglect. See, W. Va. Code §9-6-1
Preventative Adult Protective Services (PAPS)	A range of supportive services provided to vulnerable adults or facility residents where the threat of harm exists, and without intervention, it is likely that abuse, neglect, or financial exploitation will result.
Regional Long-Term Care Ombudsman	Any paid staff of a designated regional long-term care ombudsman program who has obtained appropriate certification from the Bureau for Senior Services and meets the qualifications set forth in W. Va. Code §16-5L-7. See, W. Va. Code §9-6-1
Security	Any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting-trust certificate; certificate of deposit for a security; viatical settlement contract; certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a "security" or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of or warrant or right to subscribe to or purchase any of the foregoing. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or some other specified period: Provided, That "security" does include insurance or endowment policies or annuity contracts that are viatical settlement contracts or agreements for the purchase, sale, assignment, transfer, devise or bequest of any portion of a death benefit or ownership of a life insurance policy or certificate that is less than the expected death benefit of the life insurance policy or certificate. See, W. Va. Code §32-4-401
Self-neglect	The inability of a vulnerable adult to meet his or her own basic needs of daily living due to mental or physical condition.
Sexual abuse	The coercion of a vulnerable adult or facility resident into having sexual contact with the maltreater or another person, or the involuntary or

	nonconsensual sexual conduct that would constitute an offense under W. Va. §61-8B, *et seq*.The maltreater may be involved either directly (e.g., the sexual partner) or indirectly by allowing or enabling the conditions which result in the sexual coercion or conduct.
Social isolation	Controlling, denying, limiting, or coercing visits or conversations, or both, with friends, family, and acquaintances; outside involvement; reading; spiritual beliefs, traditions, and events; and access to others. Examples are controlling, denying, limiting, or coercing transportation, phone use, electronic or assistive communication devices; using verbal abuse and threats to keep others away: severing social relationships through manipulative tactics; and limiting access to friends or family through frequent moves or remote housing, or both.
State Long-Term Care Ombudsman	An individual who meets the qualifications of West Virginia Code §16-5L-5 and who is employed by the State Bureau for Senior Services to implement the State Long-term Care Ombudsman Program. See, W. Va. Code §9-6-1
Substantiation	A determination that a vulnerable adult or facility resident meets all of the Adult Protective Services eligibility criteria. The investigation and documentation of a situation in which a vulnerable adult has been abused, neglected or financially exploited, or the investigation and documentation of a situation in which a vulnerable adult is at threat of harm from abuse, neglect, or financial exploitation.
Threat of harm	All activities, conditions, and circumstances that are likely to place the vulnerable adult or facility resident at threat of severe harm of abuse, neglect, or financial exploitation.
Undue influence	Excessive persuasion that causes another person to act or refrain from acting by overcoming that person's free will and results in inequity. See, W. Va. Supreme Court Rules of Practice and Procedure for Financial Exploitation Civil Proceedings
Verbal abuse	The threat to inflict physical pain or injury on or the imprisonment of any vulnerable adult or facility resident. The threat to inflict physical pain or injury includes, but is not limited to, threatening to withhold food, hydration and/or medical treatment. The threat to imprison includes, but is not limited to, isolation. The verbal threat(s) must be perceived by the client or others to be real. Non-malicious teasing does not constitute verbal abuse.
Vulnerable adult	Any person over the age of 18, or an emancipated minor, who by reason of physical or mental condition is unable to independently carry on the daily

	activities of life necessary to sustaining life and reasonable health and protection. See, W. Va. Code §9-6-1

SECTION 2 - INTAKE

2.1 Intake Definitions

The definitions used below are specific to this section and are a supplement to the general definition section.

Term	*Definition*
Centralized Intake	The Centralized Intake Unit is a specialized unit of workers and supervisors who are responsible for receiving and screening abuse, neglect, and financial exploitation referrals, requests to receive services, and contacting after-hours workers, when necessary, as well as other duties. The Centralized Intake Unit operates 24 hours a day, 7 days a week.
Subpoena	The process by which a court commands a witness to appear and give testimony.
Subpoena Duces Tecum	A subpoena that commands the production of specified evidence in a person's possession.

2.2 Introduction

The W. Va. Code §9-6-11 sets forth the details regarding reporting of abuse, neglect, financial exploitation, or emergency situations involving a vulnerable adult or facility resident. Any individual may report known or suspected cases of abuse, neglect, financial exploitation, or emergency situations involving a vulnerable adult or resident of a nursing home or residential facility. These reports shall be made directly to the department's Centralized Intake (CI). Reports shall be received 24 hours a day, 7 days a week. In addition, if the vulnerable adult or facility resident is willing and able, they may make a report on their own behalf.

2.3 Statutory Requirements

Reporting Allegations

In addition to the general provisions related to reporting of abuse, neglect, financial exploitation, or an emergency situation involving a vulnerable adult or facility resident, W. Va. Code §9-6-9 also sets forth requirements related to mandatory reporting. These include:

- Identification of various individuals who are mandatory reporters.
- Statement of requirements regarding immediate reporting by mandatory reporters.
- Statement of a requirement to submit a report within 48 hours.
- Statement of a requirement that mandatory reporters distribute reports to various parties; and,

- Identification of the instances in which the department is required to report substantiated findings to others such as the prosecuting attorney, law enforcement, medical examiner, etc.

Abrogation of Privileged Communications

W. Va. Code §9-6-13 states that privileged status of communications between husband and wife, and with any person identified as a mandatory reporter in W. Va. Code §9-6-9, except communications between an attorney and his client, is abrogated in circumstances involving suspected or known abuse, neglect, or financial exploitation of a vulnerable adult or where the vulnerable adult is in a known or suspected in an emergency situation. Therefore, in APS cases privileged communications do not apply between husband and wife, patient and doctor, or with any mandated reporter.

Mandatory Reporting

In addition to the general provisions related to reporting of abuse, neglect, financial exploitation, or an emergency situation involving a vulnerable adult, W. Va. Code §9-6-9 also identifies various individuals who are mandatory reporters. This means that if any of these individuals have reasonable cause to believe or observe that a vulnerable adult or facility resident is being subjected to or has the potential to be subjected to abuse, neglect, financial exploitation, or an emergency situation, they must immediately, and no more than 48 hours after learning of the alleged incident, report the circumstances to the department through CI. The following are identified as mandatory reporters:

- Medical professionals.
- Dental professionals.
- Mental health professionals.
- Christian science practitioners.
- Religious healers.
- Social service worker (including those employed by the department);
- Law enforcement officers.
- Humane officers.
- Any employee of a nursing home or other residential facility.

The requirements, set forth in state statute regarding mandatory reporters, apply without regard to where the alleged victim resides (i.e., own home, the home of another individual, or an institutional/facility setting). In addition to submission of the report to the local department, the mandated reporter must notify other various parties, dependent on the circumstances of the allegations:

- If the alleged victim is a resident of a nursing home or other residential facility, submit a report to the state or regional ombudsman, Office of Health Facilities Licensure and Certification (OHFLAC), and facility administrator.
- In case of death of the alleged victim, submit a report to appropriate local medical examiner or coroner and if abuse or neglect is believed to have been a contributing factor to the death, report also to law enforcement; and,
- When applicable (i.e., financial exploitation, violent crime, sexual assault, domestic violence, death, etc.), submit a report to law enforcement and prosecuting attorney.

As stated in W. Va. Code §9-6-14, failure to make such a report can be punishable by a fine of up to $100.00 or imprisonment of up to ten days in the county jail or both.

Under W. Va. Code §9-6-9(c), the department is required to provide notification to mandated reporters whether the referral has been accepted for investigation or screened out with no further action required, and at the conclusion of the investigation, if the referral was accepted (refer to Appendix F Notification Letter).

Mandatory Reporting Forms

All mandatory reporting forms received in the local office will be reviewed by the APS supervisor. If the report has not been entered in the CCWIS system, the APS supervisor will forward this report to CI for entry.

The mandatory reporting form will be properly destroyed after 30 days if:

- The vulnerable adult in question does not have an open APS case or is not receiving services.
- There are no pending legal proceedings involving the vulnerable adult.
- If the referral has been entered into the CCWIS system, which is required.

If the referral was accepted the mandatory reporting form will be added to the paper file.

Reporting Suspected Animal Cruelty

W. Va. Code §9-6-9a sets forth the details regarding mandatory reporting by APS workers to the county humane officer. If the APS worker forms a reasonable suspicion that an animal is the victim of cruel or inhumane treatment, they shall report the suspicion and the basis therefore to the county humane officer within 24 hours of the response to the report. This report must be documented in the Contact Screen in CCWIS with the date of the contact and the individual to whom the report was made.

Follow-Up Reporting to the Medical Examiner

The W. Va. Code §9-6-10 specifies certain requirements involving abuse, neglect, or financial exploitation of a vulnerable adult or facility resident which resulted in death. Specifically, any person or official who is required to report cases of known or suspected abuse, neglect, or financial exploitation and who has reason to believe that a vulnerable adult or facility resident has died as a result of abuse, neglect, or financial exploitation must report that fact to the appropriate local medical examiner or coroner. The medical examiner/coroner will then report their findings to the local law enforcement agency, the local prosecuting attorney, the local department, and if the institution making the report is a hospital, nursing home or other residential facility, to the administrator of the facility, the state and regional long-term care ombudsman and the Office of Health Facility Licensure and Certification (OHFLAC).

Generally, if there is a need to refer a case to the state medical examiner, this determination and the subsequent referral is to be made by the local coroner/medical examiner. The only instance when a referral might need to be made directly to the state medical examiner would be:

- If there is no medical examiner or coroner responsible for the county where the death occurred; or,
- The local medical examiner or coroner in the county where the death occurred cannot be reached or is unavailable. In these instances, the referral would be made to the state medical examiner's Forensic Investigations Unit.

A referral to the state medical examiner is generally made by the reporter or local law enforcement, rather than the department.

Immunity from Liability

The W. Va. Code §9-6-12 specifies that any person who in good faith makes or causes to be made any report permitted or required by W. Va. Code §9-6-9, shall be immune from any civil or criminal liability which might otherwise arise solely as a result of making such a report. In addition, no facility may discharge or discriminate against a resident, family member, legal representative or employee because they filed a complaint or participated in a proceeding resulting from a report being made. Violation of the later provisions can result in suspension or revocation of the facility's license.

Cooperation Among Agencies

The W. Va. Code §9-6-3 states whenever possible and appropriate, conducting investigations of alleged abuse, neglect, or financial exploitation should be coordinated between APS, various agencies of the department, the state and regional long-term care ombudsman, administers of nursing homes or other residential facilities, county prosecutors and other applicable state and federally authorized entities, such as patient advocates in state operated behavioral health facilities, and the identified Protection and Advocacy Agency (Disability Rights of West Virginia). These and other state and federal agencies are required to cooperate with each other for the purposes of observing, reporting, investigating, and acting on complaints of abuse, neglect, or financial exploitation of any vulnerable adult or facility resident. In some instances, the medical examiner's office will contact local staff to see if a report of abuse or neglect has been made on one of their clients. Supervisor and staff are to work with the medical examiner's office and provide them with the necessary information; however, reporter information is never divulged, except to the prosecuting attorney or law enforcement upon request. When an authorized agency requests records obtained through an APS investigation, the worker is required to provide the records within five business days. Records concerning reports of abuse, neglect, or financial exploitation of a vulnerable adult, including all records generated as a result of such reports, may be made available to:

- Employees or agents of the department who need access to the records for official business.
- Any law-enforcement agency investigating a report of known or suspected abuse, neglect, or financial exploitation of a vulnerable adult.
- The prosecuting attorney of the judicial circuit in which the vulnerable adult resides or in which the alleged abuse, neglect, or financial exploitation occurred.
- A circuit court or the Supreme Court of Appeals subpoenaing the records. The court shall, before permitting use of the records in connection with any court proceeding, review the records for

relevance and materiality to the issues in the proceeding. The court may issue an order to limit the examination and use of the records or any part of the record.

- A grand jury, by subpoena, upon its determination that access to the records is necessary in the conduct of its official business.
- The recognized protection and advocacy agency for the disabled of the State of West Virginia.
- The victim; and
- The victim's legal representative, unless he or she is the subject of an investigation under this article.

Confidentiality

Legal provisions concerning confidentiality have been established on both the state and federal levels. In federal law, provisions are contained in the Social Security Act and the Health Insurance Portability and Accountability Act 1996 (HIPAA). On the state level, provisions related to confidentiality of client information are contained in W. Va. Code §9-6-8 and in Chapter 200, Confidentiality, in the *Common Chapters Manual*. Refer to *Adult Services Legal Requirements and Processes* for additional information pertaining to confidentiality and when to release information.

Access by APS to Protected Health Information of Alleged Victims

Under the federal regulations related to implementation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), disclosure of protected health information is permitted, with or without the alleged victim's consent, if the sharing of this information is related to reporting of abuse, neglect, or financial exploitation, or is necessary to comply with state requirements related to conducting APS investigations (See, 45 CFR § 164.512(c)(i)).

Conflict of Interest

To avoid any conflict of interest and ensure optimal client services, the APS worker will inform their supervisor immediately upon discovering that a friend, relative, or current or former co-worker, and anyone with close ties to the worker has been assigned to them for investigation or as an ongoing case. Upon this disclosure the supervisor has the discretion to transfer the case to another worker (and in some instances to another county) and restrict the case for limited access. The supervisor will then be responsible for informing their program manager of this issue per regional protocol.

APS staff should not solicit or accept any monetary gain or gifts for their services to the client other than their salary and benefits paid by the department.

2.4 Information Gathering

During the intake process, information gathered must be as complete and thorough as possible. Whenever a report is received, if there is more than one allegation reported, all allegations are to be recorded separately within the intake on the allegations screen. The individual identified as the alleged victim in the intake process will become the client and will be reflected as such in the investigation and in

the case areas. At a minimum, the following information must be gathered during the intake process and documented in CCWIS:

- Name(s) of alleged victim.
- County of incident.
- Agency/Facility/Caregiver name, if applicable.
- Current location of the alleged victim.
- In-home or out of home setting (requiring an Institutional Investigation).
- Age and/or date of birth of the alleged victim.
- Address of the alleged victim's home.
- Phone number for the alleged victim.
- Directions to the home.
- Name, age, and relationship of alleged maltreater(s) .
- Address of the alleged maltreater
- Phone number for the alleged maltreater
- Concerns about substance use, misuse, or substance use disorder by any family member.
- Law enforcement involvement.
- Potential dangers to the worker.
- Other individuals involved in or who have knowledge of the incident.
- Description of the alleged incident(s) and any resulting injuries including type of alleged abuse, neglect, or exploitation, where and when the incident occurred, location(s) of injuries, etc.
- Physical and psychological description of the alleged victim.
- Circumstances that require an expedited response.
- Mental and physical conditions causing vulnerability.
- Risk of death or injury.
- Any interested parties.
- Name of reporter or indication that referral was made anonymously if the reporter is unwilling to give their name. If the reporter indicates that their name is not to be shared with others, this must be documented. To do this check the box in CCWIS on the reporter screen that the reporter wishes to remain anonymous.
- Relationship of the reporter to the alleged victim.
- Identification of the reporter as a mandatory reporter, when applicable.
- If a mandatory reporter, the Centralized Intake worker should request that a written report be submitted.

The name of the reporter as well as any information that may identify the reporter to others is confidential and is not to be released except to certain parties such as the prosecuting attorney and law enforcement officials as authorized by state law. If the name of the reporter is requested, the APS worker will consult with their immediate supervisor who will consult with the Assistant Attorney General assigned to APS.

In situations where the incident being reported involves self-neglect, the same person will be identified as both the alleged victim and the alleged maltreater. In situations where referrals involving in-home

settings and more than one household member is an alleged victim (i.e., both a husband and a wife), separate referrals for each individual are required, unless the alleged maltreater is a paid caregiver. The two referrals would then be associated in CCWIS to show that there is a relationship between them. In referrals involving institutional settings, multiple victims may be listed in a referral, and the provider and agency will be linked to the intake.

2.5 Eligibility Criteria

To be eligible to receive APS or PAPS, the individual must meet certain criteria. These are set forth in the following sections.

Intake and Investigation Eligibility

To be eligible to receive an APS investigation, the individual needs to meet the following criteria:

- Be 18 years of age or older, or an emancipated minor.
- Vulnerable or a facility resident; and,
- Reported to be the victim or experiencing threat of harm of abuse, neglect (including self-neglect), financial exploitation, or in an emergency situation.

If a referral is received that identifies the alleged maltreater is under age 18 and is not an emancipated minor, the caregiver of the minor must be listed as the alleged maltreater. If a minor was reported to be the alleged maltreater, it will require child welfare involvement, and a Child Protective Services (CPS) referral shall be made to CI.

Whenever criteria are met and the intake is assigned for investigation, an investigation is to commence and be completed within a specified period of time. Refer to Section 2.6 Referral Disposition and Response times for detailed information.

The investigation of a report of abuse, neglect, financial exploitation, or an emergency situation involving a vulnerable adult or facility resident is not voluntary and must be brought to conclusion in all cases that are assigned for investigation.

2.6 Referral Disposition and Response Times

Centralized Intake is the decision-maker at the intake stage of the APS process. Centralized Intake's role includes:

- Ensuring that all referrals are appropriately considered to determine if the referral is to be assigned for an investigation or screened out.
- Determining the required initial contact response time for accepted referrals based on the degree of risk indicated in the referral information. Screening of the referral is to be done promptly.

Centralized Intake will:

- Review the information collected at intake for thoroughness and completeness. If further clarification or information is required, CI may contact the reporter.
- Identify the type of referral and associate the institution or provider, as appropriate, on the referral acceptance screen in CCWIS. The type of referrals includes:
    - In-Home- client's own home.
    - Institutional- nursing home, Intensive Care Facility (ICF)/Intellectual and Developmental Disabilities (IDD) group home, Specialized Family Care homes, I/DD Waiver home, Assisted Living facilities, Adult Family Care, state operated mental health facilities, day treatment, adult day care, hospice homes, sheltered workshop, and other out of home settings. Referrals involving clients who receive in-home health care, and the alleged maltreater is the provider, will be considered institutional for the purposes of associating the provider in CCWIS.
- Conduct a search in CCWIS to determine if other referrals, investigations, or ongoing cases already exist for the identified client and associate the current referral to other referrals, investigations, and cases as appropriate.
- Determine if the referral will be screened out or accepted for investigation. In determining whether to accept or screen out the referral, the CI worker must consider:
    - The presence of factors which present a risk to the adult.
    - The information related to the alleged abuse, neglect, financial exploitation or emergency situation, the alleged victim, and the alleged maltreater.
    - Whether there are recent or current referrals under investigation with identical allegations.
    - Whether the information collected appears to meet the definition of abuse, neglect, financial exploitation, or emergency situation; and,
    - The sufficiency of information to locate the individual.
- Accept all referrals for an investigation that appear to meet the definition of vulnerable adult and abuse, neglect, financial exploitation, or an emergency situation, based on the information provided, or are at risk of being abused, neglected, or financially exploited.
- Ensure notification of acceptance or screening out of the referral has been sent to mandated reporters; and,
- Make additional referrals, as appropriate (within and outside of the department), if the referral was screened out.

In reports involving facility or agency settings, the critical factor in determining referral acceptance is whether the allegations reported meet the definition of abuse, neglect, financial exploitation, or an emergency situation. If they do, the referral is to be investigated even if the injury's origin is not known, the maltreater is not known, or the alleged maltreater is no longer employed by the agency. The referral may be screened out only if eligibility criteria is not met. When determining if neglect has occurred, the report must contain unreasonable failure by a caregiver. Harm or threat of harm must be taken into consideration as well.

Examples of APS referrals that should be screened out include, but are not limited to:

- Report of a fall with no indication that a caregiver or facility failed to act.
- Report of vulnerable adult brief not being changed, and no harm indicated, such as skin breakdown.
- Report is a minor bruise or skin tear with no indication that the injury occurred because of abuse or neglect.
- Report of caregiver falling asleep with no indication of harm or threat of harm unless a vulnerable adult has a history of elopement or wandering.
- Report of resident-on-resident altercations unless the caregiver or facility failed to act.

If the same incidents are reported, and there is reason to believe they occurred because of abuse or neglect, then they would be accepted for investigation. Repeated referrals of these types of incidents may indicate failure to act by the caregiver or facility and shall be taken into consideration when screening.

Once accepted, CI will determine the appropriate response time for the referral based on the information presented on the intake and assign it for investigation. If the referral is screened out, CI will document the basis for that decision, and ensure that additional referrals to other resources (within and outside of the department) are made, if appropriate.

APS supervisor will:

- Select the county inbox to review the APS intakes for their county/counties.
- Choose the APS referral to review and if in agreement, confirm the decision, create a new case or link to an existing case, and then assign to the worker.
- Review the screened out APS referrals that are also in the county inbox. If in agreement, confirm the decision and remove the intake from the workload.

Response Times

For all referrals that are accepted for investigation, the investigation must be initiated within a maximum of 14 days of the date the referral is received by the agency. Initiation of the investigation means, at a minimum, face-to-face contact with the alleged victim. This face-to-face contact is to occur in the adult's usual living environment whenever possible and is to be documented in CCWIS within three business days. Depending on the degree of risk to the client's health, safety, and well-being, contact with the victim may require face-to-face contact in less than 14 days. The following are the options of response times upon accepting a referral for investigation:

- **Immediate Response within 24 hours:** This time frame will apply in cases where it is determined that based on the referral information, an emergency situation exists. An emergency is a situation or set of circumstances which presents a substantial and immediate risk of death or serious injury to a vulnerable adult. A face-to-face contact with the alleged victim must be made within 24 hours. These situations are considered emergency situations. Medical and criminal emergencies shall be referred to EMS and/or law enforcement as appropriate. APS workers are not first responders.

- **Within 72 hours:** This time frame will apply in cases where it is determined based on the referral information, an emergency situation does not currently exist, but circumstances are severe enough that without prompt intervention, an emergency situation could result. A face-to-face contact with the alleged victim must be made within 72 hours.
- **Within 14 days:** This time frame will apply in cases where it is determined that based on the referral information, an emergency situation does not currently exist and/or is not expected to develop without immediate intervention. A face-to-face contact with the alleged victim must be made within 14 days.

Considerations in Determining Response Time

Centralized Intake should consider the following when determining the appropriate response time:

- The information reported contains an allegation that indicates the presence of imminent danger.
- The alleged victim has the physical, cognitive, and emotional capacity to make decisions and independently act on them.
- The location of the alleged victim at the time the intake is received (whether the victim is in a location that can assure their safety, or the victim's ability to remove themselves from danger if necessary).
- The likely effect of APS intervention in escalating the circumstances in the home or facility and the capacity of APS to remain with the situation once intervention is initiated.
- The nature of the alleged abuse, neglect, or financial exploitation indicates premeditation, bizarre behavior, or circumstances.
- The alleged abuse, neglect, or financial exploitation is occurring at this moment.
- The alleged circumstances that exist could change rapidly.
- The alleged maltreater's behavior is bizarre, out of control, or dangerous.
- The alleged victim or maltreater will flee.
- The living arrangements are life threatening.
- The alleged victim requires medical attention.
- The caregiver is gone, and the alleged victim is without needed assistance and supervision.
- The alleged victim is capable of self-preservation or protection.
- The alleged victim is isolated socially or geographically.
- There are indications of family violence.
- The family is transient or new to the community.
- The adult is currently connected to any formal support system.
- There are any family or friends available for support.
- The caregiver(s) are physically, cognitively, and emotionally able to provide needed care to the adult.
- There is a history of referrals or multiple current referrals.
- There are multiple injuries; and,
- The location of the injuries suggests more serious harm.

After Determination of Response Time

After a response time has been determined, document the decision in CCWIS indicating the selected response time and the date of this decision. Centralized Intake will then send the referral to the appropriate county inbox, and the APS supervisor will assign the referral to a worker to initiate the investigation. Centralized Intake will also ensure the notification of acceptance or screening out of the referral has been sent to the mandated reporter. The APS supervisor will follow-up to ensure that the assigned worker adhered to the designated response time and ensure a follow-up notification letter has been sent to the mandated reporter once the investigation has been completed.

In the event extenuating circumstances exist which prevent the APS worker from conducting a face-to-face contact with the alleged victim, they must document the reason(s) in CCWIS concerning why the face-to-face contact cannot be made within the assigned time frame. In these situations, the worker must consult with the supervisor prior to the date and time the face-to-face is due. As part of this, the APS worker must document their efforts in the contact screen to comply with the specified time frame and the reason(s) it was not met.

Reconsideration of Screening Decision

If there is a disagreement by the APS supervisor regarding the decision of accepting or screening out an intake or with the response time that is assigned to the intake, the APS supervisor will then complete the current APS reconsideration form. The APS supervisor will forward the completed APS reconsideration form to the policy specialist to be reviewed. If the policy specialist is in agreement of reconsideration, they will forward the form to the adult services review team. Based on the screening review team decision, the override request will be denied, and the investigation will be required, or the request will be approved and forwarded to the social services coordinator and director of CI for an override.

Recurrent Referrals

All referrals must be evaluated to determine if an emergency situation exists. There may be times when recurrent referrals are received. Recurrent referrals mean identical referrals involving an active case or a client who is currently or was recently (within the past 30 days) the subject of an APS investigation. Regardless of past contact with the client, each referral must be considered separately to determine if any additional action is required.

- If recurrent referrals, with identical allegations and maltreater(s), are received 30 days following the initial referral, the decision will be made by CI to screen out the new referral and associate it in CCWIS with the previous referral or case. If there are differences in the allegations or new information, a new referral is to be taken and based on the details of the new referral, CI is to decide to accept or screen out the referral, independent of any other referral(s).
- If a recurrent referral has been accepted, the APS supervisor will email the CI supervisor who accepted the intake, along with the CI director, and CI program manager letting them know of the duplication. The APS supervisor will not confirm the acceptance decision or assign the case. The CI supervisor will complete the override to screen out the previous decision.

2.7 Referrals Involving Specific Situations

There are certain situations where a referral is received that require additional action, a modified approach, or special considerations. These include referrals that involve the following situations:

- Violent crimes.
- Missing persons.
- An active mental health client.
- Financial exploitation.
- Nursing home, assisted living, group home and residential settings.
- Mental health and state operated long-term care facilities.
- A service agency (i.e. sheltered workshop, community mental health center, home health agency).
- An acute primary care hospital.
- Law enforcement agency.
- Receiving Adult Family Care services; or,
- Suspected Methamphetamine laboratories and/or use.

Specific requirements and/or actions required by the department related to each of these situations are described in the following sections.

Referrals Involving Violent Crimes

Referrals that are received regarding a vulnerable adult, including a facility resident, who is the victim of a violent crime, including but not limited to aggravated assault, sexual assault, attempted murder, etc., shall be received by CI. Centralized Intake will determine if the referral meets the definition of abuse, neglect, or financial exploitation as defined by W. Va. Code §9-6-1 and make a screening decision.

Centralized Intake then will notify the county, who will make the violent crime referral to local law enforcement. If it is known that a violent crime is alleged when the referral is received, CI should first request that the reporter call law enforcement directly to report the situation. Whether or not the reporter refuses or agrees to call law enforcement, the referral is to be reported immediately in either instance.

The responsibility of the APS worker in situations involving a violent crime is to work in cooperation with law enforcement to ensure the safety of the alleged victim while their investigation is being conducted. To ensure the safety of the worker, APS should not intervene or respond to an active or on-going violent crime scene or situation. Regardless of law enforcement investigation, initiation or intervention by APS should not exceed 14 days from the date the referral was received. The worker is also responsible to ensure the victim is safe and to secure safe placement for the victim immediately, if needed.

Referrals Involving Missing Persons

Any time a missing person is reported to Adult Services, the worker must immediately contact the West Virginia State Police and supply them with all necessary information including a recent photograph if a

photo is currently on file for existing clients, or one can be obtained from family members for new clients who are the subject of a new referral.

Referrals Involving Human Trafficking

Any time an APS worker suspects a client to be a victim of human trafficking, they must contact the West Virginia State Police and supply them with all information they have received. When immediate danger exists, the worker is to call 911. Workers are also advised to contact the Polaris Project through the National Human Trafficking Hotline at 1-888-373-7888. APS Intakes involving human trafficking allegations will be accepted for investigation if all Eligibility Criteria are met.

Referrals Involving an Active Mental Health Client

Referrals involving active clients of a mental health or community behavioral health center who are endangering themselves or others should be referred to the center where they are receiving treatment. While these individuals may need protection, the involvement of the mental health or behavioral health center is essential to the provision of appropriate services; however, if abuse, neglect, or financial exploitation is included in the report, APS is to complete the investigation for accepted referrals, in order to address the allegations (see Referrals Involving a Service Agency for the requirements if the alleged maltreater is a staff member of the mental health agency).

Referrals Involving Financial Exploitation

Referrals of a vulnerable adult or facility resident involving financial exploitation may be accepted for investigation if it appears it is presently occurring. Due to the nature of these investigations and difficulty receiving information related to financial exploitation, these investigations will be limited to 60 days with the option of an additional 30-day extension approved by the supervisor. As similar with violent crime referrals, APS should work with law enforcement on financial exploitation referrals. For examples or signs of financial exploitation, refer to Appendix C.

For residents of any placement setting, discharge for non-payment of the resource amount is permissible; however, the facility is required to discharge to an appropriate setting that will meet the client's needs. Referrals that deal solely with past due accounts do not meet the criteria of abuse, neglect, financial exploitation, or an emergency situation and generally will be screened out, unless the referral indicates the resident is currently being exploited.

Referrals Involving Scams

Referrals involving scams are not appropriate for APS investigation. Scams, frauds, and bad business practices may be reported to the Federal Trade Commission (FTC) at https://reportfraud.ftc.gov/#/. If the scam involves the U.S. mail, it may be reported online to the U.S. Postal Inspection Service (USPIS) at https://www.uspis.gov/report or 877-876-2455. Cyber crimes and elder fraud such as romance, lottery, investments, and sweepstakes scams can be reported to the FBI at https://www.ic3.gov/.

Referrals Involving Facilities and Paid Providers

Referrals on adults who reside in nursing homes, assisted living facilities, group homes, residential settings, and other privately-operated long-term care facilities are considered institutional investigations (IIU). Individuals who reside in their own home and receive in-home services from a paid provider are also considered IIU. Institutional Investigations are completed when the alleged maltreater is an employee of an agency or a paid provider. All complaints and referrals shall be acted upon in one of the following ways:

- Referrals that are received alleging abuse, neglect, or financial exploitation of a resident by a staff person require an IIU by APS. Multiple alleged victims, allegations, and alleged perpetrators will be listed in the same intake.
- Referrals that concern the general population of the facility rather than an individual (e.g. food is not meeting dietary requirements, cleanliness of facility) must be referred, in writing, to the Long-Term Care Unit in the Bureau of Medical Services, OHFLAC, and the Ombudsman. Information about the reporter is not to be shared as part of this notification. The reporter is to be encouraged to contact the appropriate agency to report the incident directly. If they refuse to make this report or it is unlikely or questionable as to whether the report will be made to the appropriate agency, CI must document the information reported and forward the information to the appropriate agency.
- Referrals that allege resident-to-resident abuse generally are considered to be behavioral issues and not considered to be appropriate for investigation by APS, unless the abuse, neglect, or financial exploitation is believed to have occurred as a result of action or failure to act on the part of the facility. This situation should be referred to the facility administrator or their designee to be addressed. If it is determined that there is or appears to be a pattern of this type of allegation in a facility, a referral to OHFLAC, Ombudsman, or other applicable regulatory body, or all, should be made.
- Referrals alleging maltreatment by someone not employed at an agency or facility shall be handled as an APS in-home investigation requiring the completion of the adult services assessment as opposed to IIU, if the referral meets Eligibility Criteria. Refer to Section 3 Investigation and Assessment for more information on completing the assessment.

Referrals Involving Critical Incidents in Facilities

Referrals involving critical incidents shall be referred to law enforcement, prosecuting attorney, OHFLAC, Ombudsman, Bureau for Medical Services, and Medicaid Fraud Control as appropriate. A worker involved in a situation that is under investigation by a law enforcement agency must proceed with caution. Any involvement by the worker is not to interfere with or jeopardize the investigation by law enforcement. Close coordination between the two agencies is essential. The nature and scope of APS involvement should be determined by law enforcement and the prosecuting attorney if either entity is involved in the case. Centralized Intake will ensure that districts are notified of critical incidents within facilities, so that visitation can be made with all other clients that receive case management from Adult Services.

- If a referral is received after the death of the client, CI will notify the local office, and the local office shall notify all appropriate entities including the medical examiner, law enforcement, prosecuting attorney, and other applicable regulatory bodies. APS shall proceed with investigation if Eligibility Criteria are met. For more information concerning the investigation of a death of a client involving abuse or neglect allegations refer to Investigation Involving Death of a Vulnerable Adult. More information on completing the investigation can be viewed in Section 3 Investigation and Assessment.

Referrals Involving Death of a Vulnerable Adult in the Community

If a referral is received after the death of a vulnerable adult in the community, CI shall notify the local office. The APS supervisor will notify all appropriate entities including the medical examiner, law enforcement, prosecuting attorney, and other applicable regulatory bodies. If the medical examiner, medical professional, law enforcement, or prosecuting attorney makes the referral or requests assistance with the investigation, APS shall proceed with investigation. For more information on investigating the death of a vulnerable adult in the community, see Investigations Involving Death of a Vulnerable Adult.

Referrals Involving State Operated Mental Health and Long-Term Care Facilities

The department has established a mechanism for addressing APS complaints and allegations that involve state operated mental health facilities and state operated long-term care facilities. A person(s) identified as a patient advocate is responsible for investigating all referrals received involving residents in state operated mental health facilities; however, APS will conduct a separate institutional investigation (IIU) when all criteria are met.

The following guidelines have been established to help determine the extent of involvement of APS in these state operated facilities:

- Referrals that allege a specific client has been the victim of neglect, abuse, or financial exploitation by a staff person or visitor.
- Upon receipt of a complaint by APS involving a specific client in one of these types of settings, and the alleged maltreater is an employee, the worker must discuss the complaint with the facility administrator or their designee.
- Referrals that indicate abuse of a patient/resident by another patient/resident in general are to be considered behavioral management issues within the institution and should be screened out and referred to the facility administrator or their designee; however, if there is a question as to whether neglect on the part of the facility staff was a contributing factor to the allegations of abuse, the referral may be accepted for investigation.

In any of the state operated facilities specified above, referrals that are general in nature and may concern the entire facility population should be referred to the facility administrator or their designee and forwarded, in writing, to the department with attention to the Chief Operating Officer, or their designee, of the Office of Health Facilities and to OHFLAC.

Referrals Involving a Service Agency

Referrals alleging that abuse, neglect, or financial exploitation occurred at a service agency (i.e. sheltered workshop, community mental health center, home health provider, day treatment program, etc.) and the report alleges that the maltreater was a staff member of that service agency or a visitor, an institutional investigation (IIU) must be initiated.

Allegations of client-to-client maltreatment in this type of setting are generally not considered to be appropriate for an APS institutional investigation (IIU) unless the abuse, neglect, or financial exploitation is believed to have occurred because of action or failure to act on the part of the service agency. These situations are to be referred to the agency administrator and other applicable regulatory boards.

Referrals Involving Acute Primary Care Hospital

Referrals involving abuse, neglect, or financial exploitation by hospital personnel that occurred in an acute primary care hospital are not appropriate for an APS investigation. These are to be referred to the administrator of the hospital, OHFLAC, and Medicaid Fraud Control Unit. The reporter should be encouraged to contact these entities directly to make the referral. If the reporter is unwilling or unable to do so, CI is to send a referral after gathering all relevant intake information.

Referrals Involving Law Enforcement or Correctional Facility

Referrals involving a law enforcement agency are not appropriate for an APS investigation. These are to be referred to that agency's internal investigation office or the prosecuting attorney, who is the chief local law enforcement officer. The reporter should be encouraged to contact the agency's internal investigation office or prosecuting attorney directly to make the referral. If the reporter is unwilling or unable to do so, the department is to send a written referral after gathering all relevant intake information.

Referrals Involving Adult Family Care

Since Adult Family Care (AFC) homes are certified by the department, the APS worker must notify the appropriate home finder and case management worker of an APS referral regarding AFC homes or providers. APS referrals involving adults who reside in an AFC home shall be handled as follows:

- To avoid a conflict of interest, it is recommended that the referral be assigned to another county rather than the resident county of AFC home for institutional investigation (IIU). If that is not possible, it is then recommended that the worker conducting the IIU to be different than the worker who also carries an active adult services case (Adult Residential, Guardianship, or Health Care Surrogate).
- If the worker or supervisor is the reporter, the supervisor or an employee in that unit should not be assigned to the investigation. In these situations, the referral should be assigned to another APS worker.
- If the referral indicates that one or more residents of the AFC home may be in immediate danger, the department will evaluate and respond by investigating and making appropriate referrals.

- Referrals that are received alleging abuse, neglect, or financial exploitation of a resident by a visitor require an investigation by APS, and shall be handled as an adult services assessment.
- Referrals that allege client-to-client abuse are considered to be behavioral issues and not considered to be appropriate for investigation by APS. These should be referred to the program manager. These referrals would not be accepted for IIU unless the abuse, neglect, or financial exploitation is believed to have occurred as a result of action or failure to act on the part of the AFC provider.

Referrals Involving Suspected Methamphetamine Laboratories and/or Use

Referrals involving a suspected methamphetamine lab or use should be referred to law enforcement as they should be the first responder. Law enforcement may request placement assistance if there is a vulnerable adult. If the APS worker discovers a methamphetamine lab or suspects that they have come across chemicals being used to make methamphetamine during a home visit or an investigation, the worker will leave the house, depart the immediate area, and contact their supervisor and law enforcement.

SECTION 3 - INVESTIGATION AND ASSESSMENT

3.1 Introduction

The institutional investigation (IIU), adult services assessment, and initial safety assessments are the gathering of required information to determine if alleged maltreatment of a vulnerable adult has occurred. The accepted intake must be linked to the assessment. It is extremely important that contact with and observation of the alleged victim, caregiver, alleged maltreater, witnesses, and collaterals in an APS investigation be accurately, carefully, and thoughtfully documented. In the event the maltreater is prosecuted because of an investigation, the worker will, in many cases, be the primary source of evidence for the court hearing. The information documented in the case record is critical since it may be used in the court's determination about the guilt or innocence of the maltreater, whether the crime is a felony or a misdemeanor, and the severity of the sentence imposed.

When a referral is received and there is missing information, such as name, last known address, birth date, or other information, and the worker learns any of this information at any time, this information must be documented in CCWIS.

3.2 Timeframes

Timeframes for initiation of the investigation or assessment are determined by CI upon receiving the referral. It is critical that the APS worker completes a face-to-face contact within the assigned time frame. This contact is to be documented in CCWIS within three business days. Because of the critical nature of APS, it is essential that face-to-face contact with the alleged victim be made by the APS worker within the response time assigned. In unique situations, extenuating circumstances may exist that prevent the APS worker from meeting the applicable timeframes for completion of the initial contact. When this occurs, the worker must document the reason the timeframe for the face-to-face contact could not be met.

3.3 Immediate Safety Assessment

The immediate safety assessment is required for investigations assigned within the timeframes of 24 hours or 72 hours. These response times indicate emergency or imminent danger. Immediate safety threats are circumstances happening now that are immediate, significant, and clearly observable family conditions (or threat to vulnerable adult safety) that are actively occurring or in process of occurring and will likely result in severe or serious harm to a vulnerable adult. Documentation of the immediate safety assessment must occur within three business days in CCWIS. Safety concerns are as follows:

- Injuries to the face or head.
- Life threatening living arrangements.
- Maltreatment is occurring now.
- Multiple injuries.
- Serious injuries, and;
- Unexplained injuries.

Client factors will be taken into consideration as safety concerns. Client factors are:

- Adult client has limited ability to protect self.
- Adult client is currently a danger to self or others.
- Adult client is fearful or anxious.
- Adult client is unsupervised or alone for extended periods, and;
- Adult client needs medical attention.

Caregiver factors will be taken into consideration as safety concerns. Caregiver factors are:

- Caregiver described as dangerous.
- Caregiver is out-of-control.
- Caregiver is intoxicated (alcohol or other substances).
- Caregiver is not performing caregiver responsibilities, and;
- Caregiver's viewpoint of the adult client is dangerously negative.

Household factors will be taken into consideration as safety concerns. Household factors are:

- Family violence present; and,
- Family will flee.

If an immediate safety threat exists, immediately proceed to implementing a safety plan. Refer to the Safety Plan for more information. The worker will contact the supervisor for verbal approval and document the information in CCWIS within three business days.

3.4 Adult Services Assessment

The adult services assessment is the gathering of information pertaining to client, caregiver, household factors, environmental factors, and maltreatment. The adult services assessment is used for APS investigations that occur in an in-home or family setting with no paid caregiver, or if the allegations

occurred in an out-of-home setting involving a family member, visitor, friend, or other non-paid individual. Allegations of maltreatment may include abuse, neglect, or financial exploitation. All self-neglect investigations will be documented utilizing the adult services assessment. This tool allows the worker to document the nature of maltreatment, risk status, needs, strengths, safety conclusion, and case decision. Refer to Section 2.4 Information Gathering .

3.5 Institutional Investigations

Institutional investigations are required when allegations of maltreatment occur in an out-of-home setting and involve a paid staff member, or an in-home setting that involves a paid caregiver. These settings include, but are not limited to:

- Intensive Care Facility (ICF)/Intellectual and Developmental Disabilities (I/DD) group homes.
- Nursing homes.
- Specialized Family Care homes.
- I/DD waiver homes.
- Assisted living facilities.
- Adult Family Care homes.
- State operated mental health facilities.
- Day treatment facilities.
- Adult day cares.
- Hospice homes.
- Own home with in-home services.
- Sheltered workshops; and,
- Other out-of-home settings.

Adults who reside or participate in these settings are facility residents and meet the legal definition of vulnerable adult. When an adult receives paid in-home services, and the provider is the alleged maltreater, this should be treated as an institutional investigation, and the IIU investigation tool will be used as opposed to the adult services assessment. If the alleged maltreater is not a paid caregiver, an adult services assessment shall be conducted instead of the IIU investigation tool.

3.6 Worker Safety

Within the scope of duties, workers and other employees must take precautions to prevent harm to themselves. Before making client contact, workers should make ongoing assessments of situations based on the nature of the allegation(s) or changing case characteristics. The following are issues for workers and supervisors to consider before making field visits:

- Are firearms or other weapons noted in the report or record?
- Is there a previous history of domestic violence or other violent behavior towards others?
- Is there a history of criminal activity, mental illness, substance abuse, and ritualistic abuse or cult practices?
- Is the family's geographic location isolated or dangerous and is there cell phone coverage in that location?

- Is the contact scheduled after normal working hours?
- Are there aggressive animals on or near the premises?
- Is there a “danger to worker” notification screen on the referral?
- Is there a lack of available information?
- Does anyone in the home have an infectious disease or illness?

If the intake reveals possible risk to the worker, the following should be considered as part of a personal safety plan:

- Call law enforcement or another staff person, or both, for accompaniment.
- Carry a cell phone.
- Use a state car rather than a personal vehicle.
- Carry personal safety equipment, such as a whistle or personal alarm.
- Carry personal protective equipment, such as masks and gloves.
- Conduct a criminal history check before making contact; and
- Consult with other informal sources, such as local law enforcement, previous social workers, collaterals, coworkers, or colleagues from other agencies.

During every interaction with clients, you must:

- Notify the supervisor when going and anticipated time of being there through the district's sign out protocol.
- Practice good hygiene practices, such as washing hands or using hand sanitizer.
- Follow all current health guidelines recommended by CDC and local health departments.
- Avoid wearing or carrying valuables into homes.
- Take only what is necessary into the home.
- Park in an area that would allow for workers to leave the residence quickly if necessary.
- Be cautious entering homes with large groups of people.
- Scan the home for other individuals and ask if anyone else is in the home.
- Do not invade personal space and never touch anyone in the home.
- Be aware of surroundings and identify potential safety risks.
- Do not allow a client to get between the worker and the door.
- Maintain a vehicle in good mechanical condition.
- If a worker feels unsafe, end the visit immediately and seek assistance. Leave immediately.
- When getting in the vehicle remember to look in the rear-view mirror to ensure you are not being followed.

Despite precautions, threats, and other incidents may occur. Workers and other employees must immediately notify their supervisor, another supervisor in the office, or other person in the chain of command following an incident such as assault, a threat of harm to staff or family members, or property damage. The supervisor or designee will:

- Provide the opportunity to debrief and explore the possibility of staff receiving counseling or other services.

- When warranted, report to law enforcement and request restraining orders for individuals or offices.
- Report the incident to the supervisor and program manager.
- Any worker or other staff who suspect they have entered an area where methamphetamine is manufactured will exit the residence and the property immediately and call 911 to request law enforcement response to address the safety of the vulnerable adult.
- Any staff person suspected of methamphetamine exposure should consult their personal physician within two hours of exposure.
- Any staff person suspected to have encountered highly contagious illnesses or diseases should contact their personal physician.

Domestic Violence

Investigations and assessments that involve domestic violence create an increase in danger to both the alleged victim and the worker. APS involvement in domestic violence investigations and assessments is limited to vulnerable adults who meet all Eligibility Criteria. The Dangerous Lethality Assessment Guide (DLAG) was created to help guide professionals in working with victims of domestic violence. Workers should always proceed with caution. When the referral contains information of the following, workers should contact law enforcement before proceeding:

- Possession, access and use of weapons and/or possession of weapons when prohibited.
- Direct threats to kill—anyone in the family, including self.
- Victim perceives the offender may kill them.
- Stalking behavior—following the victim, leaving threatening or intimidating messages, electronic monitoring.
- Strangulation (choking) restriction of airway/blood flow.
- Intrusive coercive control- control most of daily activities, constant monitoring.
- Forced sex.
- Victim has left or is attempting to leave the relationship.
- Offender is unemployed.
- Victim has a child who is not the offender's biological child.
- Violence is escalating; and,
- Substance abuse, which may exacerbate highly dangerous/potentially lethal behaviors.

Workers shall use caution, trauma-informed, and person-centered approaches when interviewing alleged victims. Workers should discuss heightened safety options with the victim including immediate referral to a domestic violence advocate, if a phone is available, and the victim agrees, make contact with the advocate on scene. Workers may provide:

- Immediate transportation to a shelter (utilizing shelter intake protocol) or other safe place.
- Immediate referral for domestic violence protection order.

3.7 Procedure and Responsibilities During an Investigation

Clients and alleged maltreaters have a right to be as educated and involved as possible in the decisions being made during an investigation. The more knowledgeable and invested individuals are during an investigation the more willing they are to accept intervention. The worker is entrusted with the responsibility to share information with the individual during key points throughout the intervention process, not just those concerning the investigation. It is also important to keep in mind that the way in which information is disclosed is important. An APS worker must balance the right of notification with concern for not compromising any criminal proceedings that may be initiated because of APS findings that maltreatment occurred.

The duties of the APS worker during the investigation include:

- Identify themselves as a worker from the department, and display state employee identification to the alleged victim and any other individuals to be interviewed.
- Make a face-to-face contact in private with the alleged victim(s) within the assigned time frame. If unable to do this, the worker must document the reasons in CCWIS.
- If permission to conduct the interview(s) is denied, the worker will explain to the alleged victim that the worker must discuss this situation with the supervisor. Once the supervisor has reviewed the situation, the supervisor or program manager must contact the Assistant Attorney General assigned to APS for consultation on how to gain access so that the alleged victim can be interviewed.
- Provide the alleged victim their rights using the handout Client Rights during the Adult Protective Service Process and briefly explain the content. The APS worker will clarify any questions that the client has during the assessment/investigation.
- If the alleged victim has a decision maker that is a guardian, conservator, or an attorney-in-fact by a power of attorney that is in effect, the APS worker must review or attempt to review the most recent document and record their efforts in case contacts. The handout Client Rights during the Adult Protective Service Process must be provided to the guardian as well, but not required for a Health Care Surrogate or Medical Power of Attorney.
- Give the alleged victim a brief verbal description of the abuse, neglect, or financial exploitation allegations.
- Never reveal the identity of the reporter, except:
    - upon request by the prosecuting attorney of a substantiated referral.
    - upon request by law enforcement of a substantiated referral; or
    - under order of the court.
- Involve relevant individuals and service providers as needed throughout the APS process.
- Explain the reasons behind actions taken by the worker.
- Educate all individuals involved in the investigative and assessment process to the extent possible.
- Contact the alleged maltreater(s) regarding the allegation(s) and all potential witnesses and collaterals.
- Provide the alleged maltreater with the handout Alleged Maltreater's Rights during an Adult Protective Service Process, and briefly explain the content. If the alleged maltreater has a guardian, conservator, or Uniform Power of Attorney that is in effect, the handout Alleged

Maltreater's Rights during an Adult Protective Service Process must be provided to them as well. The worker is not required to provide this to the Health Care Surrogate or Medical Power of Attorney.

- If the alleged maltreater refuses to be interviewed face-to-face, but opts for a telephone interview, the worker will request a mailing address, so the Alleged Maltreater's Rights can be mailed. If the alleged maltreater refuses to provide a home mailing address, the worker will verbally explain the rights. The worker will clarify any questions the alleged maltreater has about their rights.
- Request a complete home mailing address from the alleged maltreater explaining this is necessary for notification if the findings are substantiated. If the alleged maltreater refuses to provide the worker with a complete home mailing address, the worker must explain that a notification letter will not be sent regarding the findings, if substantiated. The worker must also explain to the alleged maltreater that the findings may affect future employment. The worker then must document in CCWIS if the alleged maltreater refuses to provide a complete home mailing address. APS cannot not mail the notification letter to the alleged maltreater's place of employment, without written permission from the alleged maltreater. If the alleged maltreater refuses to be interviewed, the worker must inform them that the findings will be completed without their input. If the alleged maltreater refuses to provide any information the worker should send a certified letter as a means of verifying that attempts were made to get their information on record. The worker will document this in CCWIS.
- If it is known that the alleged maltreater or victim has legal counsel, the worker must ask permission to continue the interview. If permission is granted, the worker will proceed with the interview. If permission is denied, the worker will discuss this with their supervisor and Assistant Attorney General assigned to APS, and still complete the investigation and assessment as deemed appropriate.
- Attempt to privately interview all relevant individuals.

In a situation where the alleged abuse, neglect, or financial exploitation occurred in a county that is not the county of residence for the alleged victim, the investigation will be conducted in the county where the allegations occurred. In these instances, close coordination and cooperation will be required by workers from both counties.

The order in which interviews are conducted is important to ensure that the information obtained is as factual as possible. The recommended order for completing the interviews is as follows:

- Alleged victim(s).
- Witnesses who may be able to report about the incident.
- Other witnesses and/or collaterals.
- Alleged maltreater(s).
- Reporter may be contacted if additional clarification/information is required at any time during the interview process.

The worker shall make all attempts to obtain a written summary of the individual's account of the incident and the events surrounding it from the alleged maltreater(s) and witnesses. When the statement is completed, the individual should sign and date the statement after they have read it thoroughly, making and initialing any corrections they believe are needed to reflect their account of the incident more accurately. Written statements should be uploaded in CCWIS.

The interview with the alleged victim must be completed face-to-face and within the assigned time frame. All other interviews are to be completed as quickly as possible, within the 30-day period allowed for completion of the investigation (except financial exploitation investigations that are allowed 60 days for completion). Every attempt must be made to conduct these interviews face-to-face. If, after every possible attempt is made, a face-to-face interview with individuals, other than the alleged victim, is not possible, the interview(s) may be conducted by telephone. When a face-to-face interview is not possible (excluding the alleged victim), it must be documented in CCWIS. Each contact must be documented in CCWIS within three business days.

Typically, the APS worker will not need to interview a child. If there is a need to interview a child under the age of 18, and the child is not an emancipated minor, the APS worker will need the permission of the parents or guardian to interview the child. If there is concern regarding the safety of the child, a referral is to be made to Child Protective Services immediately, by contacting CI.

On those occasions that interviews cannot be completed because the alleged victim is in another county, a courtesy interview may be appropriate. In these instances, the supervisor from the county requesting the courtesy interview will contact the supervisor in the county where the alleged victim is located to arrange the interview. Once the courtesy interview is completed, the worker who conducted the interview must document the contact in CCWIS, within three business days, and must notify the county requesting the interview that the interview has been completed.

Written documents and information sources are to be reviewed after all interviews are completed. This review will generally apply during an institutional investigation. The review of written documentation should include things such as the following, as applicable:

- Client chart.
- Care plan.
- Flow books/daily observation log.
- Nurses' notes/social service notes.
- Communication log.
- Physician's orders.
- Prescribed medications/medication log.
- Photos.
- Videos.
- Body audit.
- Incident report(s).
- Results of the provider's internal investigation of the incident.

- Others as applicable.

If the worker makes the initial contact and finds the alleged victim in an emergency situation requiring immediate action to ensure their safety, completion of the full investigation may need to be put on hold until the emergency situation is addressed. This may involve requesting either an Order of Attachment permitting the department to do an emergency removal or an Order for Injunctive Relief in order to gain access to the alleged victim, if access is being denied by the caregiver or others, thereby preventing assessment of the condition of the alleged victim. For more information, refer to *Legal Requirements and Processes policy.*

Whenever the APS worker identifies a need that can be met through community resources, they must make appropriate referrals with client or legal representative consent.

Investigations of Financial Exploitation

The involvement of APS in financial exploitation situations will depend upon a variety of factors, such as the amount of information that the worker will be able to obtain from financial institutions, insurance companies, credit card companies, health care providers, etc. If the allegations involve transfer of property or other documents that are on file at the courthouse, the worker should be able to obtain information from the local county courthouse as this information is a matter of public record. Financial institutions and their employees, broker dealers, and investment advisors may report suspected financial exploitation to APS. A broker dealer or investment advisor shall provide access to records to APS as part of a referral or upon request, according to W. Va. Code §32-6-601, *et seq*. If possible, the APS worker should obtain a Release of Information from the client to obtain any necessary information. If unsuccessful in obtaining a Release of Information from the client, the APS worker must make every effort possible to obtain relevant or pertinent information. If unable to obtain relevant or pertinent information, all efforts to obtain information must be documented and the reason given by the holder as to why it was not produced. It may be necessary to consult with the adult services legal counsel if the holder of the information refuses to comply with the request. Under the W. Va. Code §39B-1-101, *et seq*., the Uniform Power of Attorney Act, if a person suspects an agent of abuse, neglect, or financial exploitation a referral may be filed with APS. If the referral is accepted for investigation, APS can ask for an accounting of transactions made by the agent on behalf of the client. The agent must provide APS the requested information within 30 days, or must provide in writing why they need an additional 30 days. If the agent fails to provide information within the allotted time frame, APS may file a petition with the court.

When an investigation of financial exploitation includes securities, the worker shall notify the West Virginia State Auditor's Office (WVSAO). Referrals to WVSAO will be made via email to adultservices@wvsao.gov. All information obtained within the report and investigation may be shared with the WVSAO, except for reporter information. The worker will collaborate on the investigation with WVSAO to determine if financial exploitation has occurred. The worker may leave the investigation open

for 30 days following the referral to the WVSAO. If this 30-day time frame extends beyond the allotted 60 days to complete an investigation, the worker shall request a policy exception for an extension.

In instances where financial exploitation has occurred, court action may be necessary. According to the West Virginia Rules of Practice and Procedure for Financial Exploitation Civil Proceedings, the department may file a petition for a Financial Exploitation Protective Order. Workers should follow regional protocol to file this petition requesting the aforementioned documents.

For accepted financial exploitation investigations due to delinquent accounts that have occurred from ongoing financial exploitation, the worker must focus on prevention of current and future financial exploitation. Whenever financial exploitation has occurred or is occurring that involves a nursing home, assisted living resident, legally unlicensed home, or a residential care community, the worker is to notify the Long-Term Care Ombudsman (except Group Homes), OHFLAC, law enforcement, prosecuting attorney and Medicaid Fraud. Whenever financial exploitation has occurred that involves a resident of any other placement setting, the APS worker is to notify law enforcement, prosecuting attorney, OHFLAC, Medicaid Fraud, Bureau for Behavioral Health, Bureau for Medical Services or other appropriate regulatory agency.

Investigations Involving Death of a Vulnerable Adult

Workers will make all attempts to complete face-to-face response times within policy guidelines. If a referral is received prior to the death of a client, but a face- to- face was not completed, or if the referral is received after the death of a client, APS shall continue the investigation through collecting appropriate documentation from all appropriate entities. The worker shall conduct interviews and obtain signed, written, and dated statements from individuals concerning the incident and all relative information. More information on completing the investigation can be viewed in 3.7 Procedure and Responsibilities During an Investigation.

3.8 Adult Services Assessment Information Gathering

Once the referral is assigned to an APS worker, the investigation or assessment is to be initiated within the assigned time frame. Completion of the assessment involves gathering a variety of information about the client, their current status, whether or not the allegations of abuse, neglect, or financial exploitation have occurred, and if so, the details of the abuse, neglect, or financial exploitation. Information is to be gathered by conducting interviews with the client, caregiver (if applicable), alleged maltreater, others having knowledge of the situation, and family members or other significant individuals. If it is clearly determined the client has mental capacity, does not reside in a facility, and requests the alleged maltreater not be interviewed, the worker will need to staff this with their supervisor. When interviewing the alleged maltreater in a facility setting and the individual is still employed, they must cooperate with the investigation. If the alleged maltreater has been terminated by the facility, the APS worker must make every attempt to conduct the interview. If they refuse to be interviewed, this is to be documented in CCWIS. A refusal to be interviewed does not mean that maltreatment has not occurred.

Workers will continue to conduct the investigation and may determine that maltreatment has occurred based on all gathered information. This must be documented in CCWIS.

In addition to gathering the below identified demographic information, several critical questions must be considered by the worker when completing the investigation and assessment. The worker will determine whether ongoing APS or PAPS services will occur upon the completion of the investigation, or if the investigation will be closed without additional services. These include the following:

- Is the alleged victim safe or can their safety be arranged or assured through resources available to them? (Resources include financial, social, familial, etc.)
- Can any of the allegations presented in the referral or identified during the investigation process be verified? Can the worker determine that maltreatment has occurred?
- Does the alleged victim meet all ongoing APS or PAPS eligibility criteria?
- If the alleged victim has decision-making capacity, are they willing to accept services?
- If ongoing APS or PAPS will not be provided, are referrals to other resources needed?

Although the APS worker should make every effort to interview the alleged victim and obtain consent from their legal representative, when necessary, the APS worker must nevertheless complete the investigation and assessment in a timely manner. It is not required for the APS worker to obtain the permission of the alleged victim or their legal representative, if applicable, to complete the investigation and assessment component. If the APS worker is met with resistance that cannot be resolved otherwise, the worker should pursue legal action upon consulting with their supervisor.

If at any time during the investigation and assessment process, doubt arises regarding the emergent nature of the situation, the APS worker shall resolve the doubt in favor of the client's safety and immediately initiate face-to-face contact with the alleged victim. If the allegations are of a violent nature and the maltreater is likely to be present, the worker is encouraged to conference with their supervisor to request that law enforcement accompany them to the home to complete the initial face-to-face contact. Refer to Section 3.6 Worker Safety for more information.

Demographic Information

Demographic information about the client, the client's family and unique circumstances is to be documented. The following list is not intended to be all-inclusive: This includes information such as:

- Name.
- Address (mailing and residence).
- Date of birth/age.
- Household members.
- Other significant individuals.
- Legal representatives/substitute decision-makers, if applicable.
- Identification numbers (SSN, Medicaid, Medicare, SSA Claim, etc.).
- Ethnicity.
- Marital status.
- Advance directives in effect, if applicable; and,

- Directions to the current residence.

Living Arrangements

Documenting information about the client's current living arrangements should include information about where the client currently resides, such as the following:

- Client's current location (own home, relative's home, hospital, etc.).
- Is this setting considered permanent or temporary?
- Type of setting (private home, residential facility).
- Household/family composition.
- Physical description of residence (single family dwelling, duplex, townhouse, apartment, retirement community, foster home, group home, nursing facility, etc.).
- Interior condition of the residence.
- Exterior condition of the residence.
- Type of geographic area (rural, urban, suburban, etc.); and,
- Access to resources such as family/friends, transportation, shopping, medical care/services, social/recreational, religious affiliations, etc.

Client Functioning

Documenting information about the client's personal characteristics should include information about how the client's personal needs are currently met, including an assessment of their strengths, needs, and supports in areas. If a client is fully dependent for assistance or only requires some assistance in an Activity of Daily Living (ADL), the APS worker shall document the level of assistance required in the client portion of the adult services assessment within CCWIS. If a client is independent in a specific ADL, it will not be included in the picklist portion of the assessment, but instead documented in the comments section.

- If client needs are currently being met and by whom.
- Ability to manage finances.
- Ability to manage personal affairs.
- Ability to make and understand medical decisions; and,
- Assessment of decision-making capacity.

Physical/ Medical Health

Documenting information about the client's current physical and medical conditions should include information about the physical condition and description of the client as observed by the APS worker during face-to-face contact, as well as information about the client's diagnosed health status. Included are areas such as:

- Observed/reported physical conditions of the client.
- Primary care physician.
- Diagnosed health conditions.
- Current medications.
- Durable medical equipment and supplies used/needed; and,

- Nutritional status.

Mental/Emotional Health

Documenting information about the client's current and past mental health status should include information about how the client is currently functioning, their current needs, and supports, and their history of mental health treatment involvement, if applicable. Included are areas such as:

- Current treatment status.
- Current mental health provider, if applicable.
- Mental health services currently receiving.
- Medication prescribed for treatment of a mental health condition.
- Observed/reported mental health/behavioral conditions; and,
- Mental health treatment history.

Financial Information

It is important to document information about the client's resources and their ability to manage these independently or with assistance. Included are areas such as:

- Financial resources - type and amount.
- Other resources available to the client - non-financial (i.e., bonds);
- Assets available to the client.
- Health insurance coverage.
- Life insurance coverage.
- Pre-need burial agreements/ arrangements in effect, if applicable.
- Information about client's ability to manage their own finances.
- Outstanding debts or expenses.
- Court ordered obligation for child support or alimony.
- Whoever manages the client's finances or who has access to client's accounts; and,
- Benefits.

Education/Vocational Information

Document information about the educational and vocational training the client has received or is currently receiving. This should include information such as:

- Last grade completed.
- Field of study.
- History of college attendance/graduation.
- History of special licensure/training; and,
- Current educational/training needs.

Employment Information

Document information about the client's past and present employment, such as:

- Current employment status.
- Current employer.

- Prior employment history; and,
- Current employment needs.

Military Information

Documenting information about the client's military history, if applicable, should include information such as:

- Branch of service/dates of service.
- Type of discharge received.
- Service-related disability, if applicable; and,
- Veteran's eligibility for benefits (contact local veteran representative if necessary).

Legal Information

Documenting information about the client's current legal status should include information about all known legal representatives, and the specific nature/scope of that relationship. This should include information such as:

- Opinion of client's decision-making capacity by the APS worker.
- Information about legal determination of competence, if applicable.
- Information about efforts to have a client's decision-making capacity formally evaluated.
- Individuals who assist the client with decision-making; and,
- Court/hearing information.

Caregiver Details

Documenting information about the caregiver, if applicable, should include information such as:

- Relationship to client.
- How the caregiver interacts with the client.
- Any strange or unusual behaviors; and,
- The type of care provided to the client.

Caregiver details will also include information if any legal action has been taken by the department as a result of the investigation and assessment.

Decision Making Capacity

Based on the information gathered during the investigation and assessment, the APS worker is to decide as to whether or not the client **appears** to have the capacity to make independent decisions on their own behalf and to act on these decisions to meet their needs. It is important to remember that poor judgment does not necessarily indicate incapacity. **The APS worker does not determine incapacity**. If the client's decision-making capacity is in question, the APS worker shall request that an evaluation be completed by a physician, a physician's assistant, an advanced practice registered nurse, or a qualified psychologist to further assess the adult's decision-making capacity. Documentation of the client's decision-making capacity must include information regarding a determination of incapacity, if applicable,

or worker observations leading to this conclusion if there is no indication that there has been a determination.

Risk Status

A critical component of the assessment process is determining if the alleged victim is at risk of injury or harm. The worker will also assess the alleged victim's understanding of risk. This determination is made based on the client's circumstances that are reported on the referral and/or observed during the investigation and the availability/accessibility of potential supports and resources that could alleviate the risk. Examples of circumstances that may exist which could be an indicator of risk include the following:

- No established residence.
- Inadequate/substandard housing.
- Suicidal gestures/statements.
- Self-destructive behavior.
- Violent/physically aggressive.
- Misuse/abuse of alcohol and/or drugs.
- Behaviors that provoke a serious reaction from others (incontinence, wandering, excessive talking, repetitive speech, etc.).
- Peer relationships reinforce/promote problematic behaviors.
- Client's behavior is a threat to self or others.
- Family members are violent to each other.
- Lack of support system (formal and/or informal).

The above is not intended to be an all-inclusive list. The presence of any one or combination of these in and of itself would not mean that risk is present in every case. It is essential to consider all the client's circumstances in deciding about the presence or lack of risk to the client. Example: the referral alleged there was no food in the house, but during the investigation, the APS worker learned the client goes out for meals and receives Meals-On-Wheels.

3.9 Institutional Investigation Tool

The Institutional Investigation (IIU) tool is used to document findings that occur in an out-of-home care setting, or a setting with a paid provider. The purpose of IIU is to determine if maltreatment occurred. The worker will document the following:

- Was the alleged maltreater(s) notified of the allegations against him or her?
- Was the facility administrator or agency director contacted? Date, time, method, and person contacted.
- Information provided to the facility administrator or agency director.
- Date law enforcement contact, if applicable.
- Recommendations concerning alleged maltreater.
- Recommendations concerning administration or agency.
- Licensing recommendations.
- Summary of investigation.

- Findings.

3.10 Determining Maltreatment Findings

During the investigation and assessment processes, the worker is to determine whether maltreatment has occurred by evaluating all relevant evidence obtained during the assessment and investigative process. The worker will consider each of the following in determining the occurrence of maltreatment:

- How does the evidence fit together or fail to fit together?
    - Does all the evidence tell the same story?
    - If not, what are the undisputed facts, and what are the points of difference?
    - Is the description of how an injury or incident occurred consistent with the type of injury or incident?
    - Are differences in the evidence explained by witnesses' different opportunities for knowledge?
- Did some witnesses have a clear view of the incident?
    - Is any witness's ability to give accurate testimony impaired by limited cognitive, memory, or communication abilities?
    - Are the documents original and from someone with firsthand knowledge?
    - How much time went by after the incident before it was described by the witnesses?
    - How long after the incident was it documented? Was the document created in a timely manner?
- Are differences in the evidence explained by any witness's desire to affect the outcome of the investigation?
    - Does any person in the case have a reason to be deliberately deceptive?
    - What relationship do the witnesses have with the client or the alleged maltreater?
    - Might similar testimonies be the result of collaboration?
    - Are any witnesses angry at the client or the alleged maltreater?
    - Are any witnesses fearful of the consequences of testifying in court?
    - Do any witnesses identify with the client or the alleged maltreater?
    - Is the client or any witness under undue influence?
    - Are any witnesses influenced by conscious or unconscious bias?
- Do pieces of witness statements differ in substance and also differ in their degree and quality of detail, their internal consistency, and their general appearance of truthfulness?
    - Which people gave specific details, and which did not?
    - Are there inconsistencies within a particular person's testimony?
    - Were any witnesses uncooperative or unwilling to be interviewed?
    - Did any witness display unusual demeanor during the interview?

Maltreatment Has Occurred

The worker will consider each allegation individually and determine whether, based on the information gathered, maltreatment occurred, according to the legal definition of abuse, neglect, or financial exploitation. See Section 1.5 Definitions.

If at least one allegation of abuse, neglect, or financial exploitation has occurred according to the legal definitions, and the other criteria are met, see Section 2.5 Eligibility Criteria, the worker must document that maltreatment has occurred for that allegation in CCWIS. The worker will also document any severity of harm, aggravated circumstances, and contributing factors to maltreatment.

Severity of Harm

Severity of harm reflects a critical incident related to abuse or neglect. Severity of harm includes:

- No medical/therapeutic treatment provided.
- Treated and released.
- Hospitalized.
- Client fatality.
- Near fatality; or,
- Not applicable.

Aggravated Circumstances

Aggravated circumstances refer to the factors that increase the severity or culpability of a criminal act. Typically, the presence of an aggravating circumstance will lead to a harsher penalty for a convicted criminal. Aggravated circumstances available in an APS investigation include:

- Abandonment.
- Chronic abuse.
- Committed murder of the victim.
- Committed voluntary manslaughter of the victim.
- Conspired to commit murder or voluntary manslaughter of the victim .
- Other.
- Sexual abuse.
- Torture; and,
- Unlawful or malicious wounding of the victim.

Contributing Factors

Certain factors of the vulnerable adult, alleged maltreater, and environment may contribute to the maltreatment of a vulnerable adult. Categories of contributing factors that increase the risk of maltreatment include:

- Relationship of alleged maltreater to the vulnerable adult, including dependency, position of power, and cohabitation.
- Vulnerable adult without necessary caregiver.
- Domestic violence.
- Staffing problems.
- Substance use.
- Social isolation.
- Mental health concerns.

- Mental or physical disability.

Maltreatment Has Not Occurred

If maltreatment has not occurred according to the legal definition, the worker will document this information within CCWIS. See, Section 1.5 General Definitions for maltreatment definitions. The worker may still open a PAPS case if the client or legal decision maker chooses to continue services and the client is at risk of maltreatment. For more information on PAPS case management, refer to Section 4 Case Management.

3.11 Conclusion of Investigation and Adult Service Assessment

The investigation or assessment is to be completed within 30 days for abuse and neglect and 60 days for financial exploitation. In the rare situations when it is not possible to complete the full investigation within this timeframe, the APS worker must request an extension. To request an extension, the APS worker must submit a policy exception request in CCWIS to the APS supervisor prior to expiration of the assigned response time. At a minimum, this request must clearly state the following:

- Explanation of why the assigned time frame cannot be met.
- Statement of the extenuating circumstances that exist.
- Estimation of the amount of additional time required; and,
- Other relevant information.

Based on the information provided, the supervisor may approve or deny the extension request. If approved, the maximum period of time allowed shall not exceed 14 days for abuse and neglect and 30 days for financial exploitation.

In the event a client has left the state, worker cannot locate, etc., an incomplete assessment can be completed in consultation with the supervisor. The worker will need to complete a policy exception in CCWIS when requesting an incomplete assessment by selecting the appropriate item from the picklist. This exception request will be approved or denied by the supervisor.

When follow-up is requested by a reporter, the APS worker must follow-up with the reporter regarding the investigation; however, the only information the APS worker can give the reporter is to advise that appropriate action is being taken and that all information obtained during the investigation is considered confidential and may not be shared.

At the conclusion of the investigation and adult service assessment, the APS worker will then submit the adult service assessment, along with their recommendation about disposition of the investigation, to the supervisor for approval. The possible dispositions and case decisions available are:

- Close Adult Services.
- Close Adult Services, Refer to Community Services.
- Open Adult Residential Services.
- Open Adult Guardianship.

- Open Adult Protective Services.
- Open Health Care Surrogate.
- Open Homeless Services.
- Open Preventative Adult Services; and,
- Open Unclaimed Deceased Adult Body.

The case decision shall be based on all the information gathered during the institutional investigation or completion of the adult service assessment. This determination shall be based on whether the applicable eligibility criteria have been met according to W. Va. Code §9-6-1, *et seq.* and APS Policy.
If it is determined that maltreatment has NOT occurred and that an APS or PAPS case is not needed, then upon completion of the adult service assessment and approval by supervisor, the worker will complete a request for case closure which will also be approved by the supervisor.

3.12 Penalties for Caregivers

W. Va. Code §61-2-29 and §61-2-29b provides for criminal penalties for caregivers who, directly or indirectly, abuse, neglect or create an emergency situation, or financially exploit a vulnerable adult. Because of this, it is extremely important that contact with and observations of the caregiver in an APS investigation be accurately, carefully, and thoughtfully documented. In the event the maltreater is prosecuted because of an APS referral, the APS worker will, in many cases, be the primary source of evidence for the court hearing. The information documented in the case record is critical since it may be used in the court's determination about the guilt or innocence of the maltreater, whether the crime is a felony or a misdemeanor, and the severity of the sentence imposed.

3.13 Required Notifications

Workers are required to send notifications in certain circumstances. Following an institutional investigation, the worker will provide notifications and document in CCWIS the date that written notifications are sent.

- Notification of maltreatment findings to the facility or agency administrator.
- Notification of the maltreatment findings to the appropriate licensing and supervising authorities.
- Mandated reporter disposition notification.
- Notification to the alleged maltreater of maltreatment findings.
- Notification of maltreatment finding to vulnerable adult, guardian, or durable power of attorney.
- Closure notification letter. This notification is listed as the Notification to Facility.
- Did IIU recommend a corrective action plan?
- Did IIU obtain a copy of law enforcement's report?

Maltreatment Has Occurred

When an APS worker determines that maltreatment has occurred, the APS worker must send a Notification Letter to the Prosecuting Attorney and Law Enforcement provided in CCWIS. Information

should only be a narrative of the investigation, not detailed information. The reporter's name must not be revealed in this letter.

Any time a referral for APS involving a known maltreater is substantiated (excluding self-neglect), the APS worker must provide written documentation to the following:

- Prosecuting Attorney and Law Enforcement
  Use the form letter titled "Notification to the Prosecuting Attorney" for the Prosecuting Attorney or the "Notification to Law Enforcement" for law enforcement for this purpose.
  Include in the body of the notification letter a description of the allegation(s) and investigation findings, potential witnesses, and action being requested of the court or the prosecuting attorney.
  The maltreater's name and address (if the maltreatment occurred in a facility and was an IIU investigation, the maltreater's title and facility or agency's name is to be included), as well as a summary of the investigation. In addition, the APS worker must include the following:
- Condition of the residence .
- Condition of the client.
- What intervention has been attempted and the results.
- What further intervention is needed to ensure the client's safety (if removal from the home is being recommended, where the adult will be taken to, how they are to be transported, any applicable precautions, etc.); and,
- Any other pertinent information.
    - Maltreater- complete demographic information must be entered in CCWIS for the client.
    - Use the form letter titled "Notification to the Maltreater".
    - The letter must be signed by the worker, and a signed copy shall be uploaded into CCWIS before mailing to the maltreater.
    - The letter will also notify the maltreater of their right to appeal and the process to request a grievance.
    - The grievance forms, if requested, must be completed and forwarded to the appropriate hearing's office in accordance with the grievance procedure outlined in Common Chapters, Chapter 700. Refer to the Board of Review.

Due to the legal nature of this letter, the content of the body of the letter must not be altered. This letter contains required information and has been approved by the department's legal counsel. As such, CCWIS will only allow the worker to make changes to the maltreater's name and address. No other information can be altered.

These agencies shall receive notification when the maltreatment occurred in the following:

- Residential Facilities
    - Nursing home- Administrator of the facility, OHFLAC, Medicaid Fraud, Ombudsman, and Bureau for Medical Services Long-Term Care Unit
    - Assisted Living, and Registered/Unlicensed Homes- Administrator of the assisted living facility, OHFLAC, Ombudsman, and Medicaid Fraud.

    - I/DD Waiver and ICF/ID Group Homes- Administrator of the agency, OHFLAC, Medicaid Fraud, Bureau for Behavioral Health Adult Division, and Bureau for Medical Services Long-Term Care Unit, and I/DD Waiver homes are referred to Home and Community Based Services Unit at Bureau for Medical Services along with OHFLAC and Medicaid Fraud
- State Operated Mental Health or State Operated Long-Term Care Facilities- Administrator, OHFLAC, Ombudsman, Medicaid Fraud, and Office of Health Facilities.
- Specialized Family Care homes (Medley)- Specialized Family Care Homefinder, Medley Program Manager, and Medicaid Fraud.
- Adult Family Care Homes- Adult Family Care Homefinder, Regional Home Finding Supervisor, and Ombudsman
- Legally Unlicensed Homes- OHFLAC and Ombudsman
- Non-residential Service providers (home health, homemaker agencies, behavioral health centers, sheltered workshop, etc.)- Administrator, OHFLAC or the regulatory agency that licenses that entity, and Medicaid Fraud.
- Any individual receiving waiver services regardless of setting. (Intellectual/Developmental Disabilities (I/DD), Aged and Disabled (ADW), Children with Serious Emotional Disorders (CESD), Traumatic Brain Injury (TBI)- Administrator of the agency employing the caregiver, the Home and Community Based Services Unit at Bureau for Medical Services, and Medicaid Fraud

In addition, if it is determined that there is or appears to be a pattern of allegations involving resident rights issues in a facility, a referral to the applicable regulatory agency (i.e., Ombudsman and OHFLAC) shall be made.

When an investigation results in a determination that maltreatment occurred and the decision is reversed, written notification must be sent to all individuals/entities that were previously notified and a copy filed in the client's record.

APS referrals that have been substantiated and a subsequent record check is completed: All referrals prior to May 18, 2006, must be fully reviewed to determine investigation results of substantiated or unsubstantiated, as the finding screen may be inaccurate due to a CCWIS system change.

Maltreatment Has Not Occurred

When allegations of maltreatment have not occurred but poor or inappropriate practice by a facility has been discovered during the investigation process, referrals must be made to the appropriate regulatory body as referred to in the Maltreatment Has Occurred section.

Upon request, an alleged maltreater may receive a letter stating that maltreatment did not occur following an unsubstantiated investigation. They must provide a complete name and mailing address, and the worker will enter the information into CCWIS. This letter will not be automatically distributed and must be manually sent by the worker upon supervisory approval. This letter is available in CCWIS in

the adult services assessment or IIU investigation tool forms;. When the notification is sent, it must be documented as a contact and uploaded in CCWIS and a hard copy filed in the case record.

Mandatory Reporters

Upon the conclusion of an APS investigation, workers shall send the disposition of the investigation letter to the mandated reporter and note this on the contacts screen; however, the name of the reporter is not to be documented in the contacts screen. This notification is only to be used for mandated reporters. The disposition of investigation notification can be found in Appendix E.

SECTION 4 - CASE MANAGEMENT

4.1 Introduction

Case management is the primary service provided by the department for clients who have been opened for APS or PAPS. It consists of identification of needs, appropriate services, and resources to address the identified needs, referral of the client to appropriate service agencies, and coordination of service delivery. It is important to note that APS/PAPS case management is voluntary on the part of the client, or on the part of their legally appointed representative. Case management cannot be forced upon an unwilling client who has not been determined to be incapacitated. Case management in all APS/PAPS cases are to be time limited. APS cases are not to exceed 12 months and PAPS are not to exceed 6 months. The end goal of case management for these cases is to link clients with appropriate supportive services. Once this is accomplished, the case is to be closed. Case management should only continue long enough for the worker to determine that the arranged services and supports are adequate to address the client's needs and to ensure that the abuse, neglect, or financial exploitation situation has been adequately remedied.

4.2 Ongoing Adult Protective Services and Preventative Adult Protective Services

Generally, if the client meets all the eligibility criteria, and maltreatment occurred, the case will be opened for ongoing APS services. Two instances where all eligibility criteria are met that an ongoing APS case may not be opened, include:

- The client is in a facility, and the abuse, neglect, or financial exploitation was limited to a maltreater who is no longer employed with the facility; and,
- The client has not been deemed to lack capacity and is not willing to accept services.

In these situations, **the worker will still document in CCWIS that maltreatment occurred**; however, an ongoing APS case may not be required.

If during the investigative and assessment process, the APS worker determined that maltreatment did not occur, but the client is at risk of being abused, neglected, or financially exploited, then a PAPS case should be opened with the consent of the client or legal decision maker.

If there is an APS or PAPS ongoing case and the client needs the department to serve as decision maker or adult residential placement is required, that program type will be opened. For more information on other programs, refer to *Substitute Decision Maker* and *Adult Residential Services* policies.

The Summary Box in CCWIS should only be a narrative of the investigation. It should not include detailed information as to who was interviewed or the contents of the interview.

4.3 Adult Services Assessment for Case Management

An adult services assessment must be completed for each individual whose case has been opened for APS or PAPS. To develop a detailed understanding of the client and their needs, the APS worker must conduct a face-to-face with the client and complete an assessment. Each individual contact is to be documented.

Time Frames

An adult service assessment, including the development of the case plan, must be completed for each client who is opened for APS/PAPS. Face-to-face visits with ongoing APS or PAPS clients are required monthly and must be documented in CCWIS within three business days. If changes in the client's circumstances occur that would impact the information documented on the adult service assessment after it has been completed in the case, a new assessment is required. New adult service assessments and case plans are required every three months.

Conclusion of Adult Services Assessment

When the adult services assessment is completed, all the information and findings are to be documented in CCWIS and submitted to the APS supervisor for approval.

4.4 Case Plan

Following completion of the adult service assessment that results in open case management, a case plan shall be developed to guide the provision of services. The case plan will be developed based on the assessment findings and is then to be submitted by the worker and approved by the supervisor within a month after the case is opened. Areas that were identified as problem areas on the Adult Service assessment that have not been completely resolved are to be addressed on the case plan. Case planning must be primarily directed toward remedy of the identified abuse, neglect, or financial exploitation or alleviating the risk of abuse, neglect, or financial exploitation to the client for APS/PAPS program types. In developing a case plan, consideration should be given to the conditions that exist as well as the strengths and capabilities of the client, family, and support system. Based on the circumstances that exist, it may also be appropriate to develop a plan to reduce risk and assure safety of the client, which will require a safety plan. In addition to addressing the immediate issues, consideration is also to be given to long-term planning, including preparing for eventual closure of the APS intervention, as appropriate. Service needs are to be addressed in priority order, beginning with the most urgent issues.
Development of the case plan is to be based on the findings and information collected during the assessment processes as well as any specific requirements set forth by order of the court. Based on the

information gathered, goals must be identified and set forth in the case plan. These will provide the milestones for assessing progress and success in the implementation of the plan. The case plan provides a written statement of the goals and desired outcomes related to the conditions identified through the assessment processes. Each problem area included in the case plan for an APS/PAPS case must be directly related to the APS/PAPS situation that exists.

Development of the case plan is to be a collaborative process between the worker, the client, and others, such as providers or the legal guardian. In addition, the principle of self-determination, which is critical in intervention with adults, extends to the client's right to decide with whom they associate and who should be included in case planning for them.

Document the details of the case plan in CCWIS, clearly and specifically delineating the plan components. After approval by the supervisor, a copy of the case plan is to be printed and required signatures obtained. Required signatures include the client or his/her legal representative and all other responsible parties identified in the case plan. The signed copy is then to be uploaded into CCWIS and filed in the client record. A copy of the completed case plan is to be provided to all of the signatories.

Inclusion of the Incapacitated Adult in Case Planning

Inclusion of incapacitated adults in the case planning process presents the APS worker with some unique challenges. Although determined to lack decision-making capacity, the client may have the capacity to participate in the development of the case plan and shall participate in its development as well as signing of the completed document. Some special considerations for the worker include the following:

- When there has been a legal determination that the client lacks decision-making capacity and has a court appointed representative, the representative must be respected as the spokesperson for the client and the representative's consent must be obtained in completion of the case plan. If the court appointed representative is the maltreater in an APS case and is unwilling or unable to take/permit the action(s) necessary to carry out the case plan, that individual shall not participate in development of the case plan, nor shall they sign the completed document. In this situation, the case plan must address seeking a change in the client's legal representative.
- When the client has an informal representative (i.e., close relative or other long-term caregiver), this individual should be included in the case planning process and may sign the case plan. The relationship of the informal representative is to be documented in the client record.
- When the client appears to lack decision-making capacity, but does not have a court appointed or informal representative, the APS worker may complete the case plan without the client's consent and involvement, if the primary goal in the plan is to obtain appropriate legal representation; and,
- When a client appears to have decision-making capacity and could benefit from intervention but is resistant, it is appropriate for the APS worker to try to overcome some of this resistance. Ultimately, however, a client with decision-making capacity has the right to refuse case management services. In this situation, a case plan would not be developed, and the APS/PAPS case is to be closed.

Determining the Least Intrusive Level of Intervention

In the provision of services to adults, the principle is well established both in law and policy that the least intrusive means of intervention should always be used. Interventions are determined on a case-by-case basis.

Dedication to the principle of least intrusive intervention requires a commitment to the maximum level of self-determination by the client. The APS worker shall present the client and/or their court appointed representative with options and educate them about the benefits and consequences of each. The client should be the primary decision-maker in case planning when possible. The case plan is used to document these choices and to ensure the integrity of the decision-making process.

It is important to clearly document the efforts made to assure the least intrusive level of intervention. In the event these efforts are unsuccessful, this fact and the reason(s) they were not successful must also be clearly documented in the case record. This becomes increasingly important if legal intervention becomes necessary.

Required Elements

The case plan must contain all the following components to assure a clear understanding of the plan and to provide a means for assessing progress:

- Parties to the case plan and their roles and responsibilities, including the client, caregiver, guardian, and collaterals who will participate.
- Concerns and needs identified during the assessment process.
- Identified strengths of parties to the plan.
- Specific criteria which can be applied to measure accomplishment of the goals.
- Specific tasks which will be required in order to accomplish the goal. These are tasks or activities that are designed to help the client progress toward achieving a particular goal and should be very specific and stated in behavioral terms. These tasks are typically short-term and should be monitored frequently; and,
- Identification of the estimated date for goal attainment. This is a projection of the date that the APS worker and the client expect that all applicable tasks will be achieved.

Other important considerations for the service planning process are:

- The client's real and potential strengths.
- Attitudes, influences and interpersonal relationships and their real or potential impact on implementation of the Service Plan.
- The circumstances precipitating involvement by the APS system; and,
- Levels of motivation.

Safety Plan

When it is determined through the assessment process that risk factors exist which compromise the safety of the adult, the identified problem areas must be addressed in the safety plan. When developing a plan to assure the safety of the client, it is important to involve them in the discussion of the behaviors which are problematic, options for managing the behaviors, and the formalization of a plan to address the behaviors and their cause(s). In situations where it is necessary to remove the adult from their home to assure their safety, the following should occur:

- Identify the conditions that establish/support the need for out-of-home placement.
- Identify the recommended placement arrangement.
- Describe arrangements for visitation with family and friends, including any restrictions, if applicable; and,
- Describe the efforts that have been made to prevent out-of-home placement and the results of these efforts.

Out-of-Home Placement Considerations

Some clients may be unable to reside in their own home, even with the provision of supportive services. When this occurs, the APS worker must evaluate the client's circumstances and needs to assist in arranging the most appropriate, least restrictive placement alternative. Options to consider, in the order of least to most restrictive, include the following:

- Placement with a relative, friend, or other interested party (with or without supportive services).
- Adult Family Care.
- Specialized Family Care home.
- Assisted Living facility.
- I/DD Waiver home.
- ICF/ID group home; or
- Nursing Home.

4.5 Administrative Processes

Refer to the *Legal Requirements Procedures Policy* and *Substitute Decision Maker Policy* for information regarding administrative processes.

4.6 Exceptions to Policy

In some circumstances exceptions to policy may be requested. Exceptions will be granted on an individual case-by-case basis and only in situations where client circumstances are sufficiently unusual to justify the exception; however, such exceptions are to be requested ONLY after other resources have been exhausted. In that event, requests must be submitted as a policy exception in CCWIS. The policy exception request is to be submitted by the APS worker to the supervisor. Upon supervisory approval, the request will be forwarded to the appropriate individual for final approval/denial. Policy exception requests must include:

- Explanation of why the exception is requested.
- Anticipated impact if the policy exception is not granted.

- Efforts to resolve the situation.
- Information supporting the request.
- The time period for which the exception is being requested; and,
- Other relevant information.

In an emergency situation, the request for a policy exception may be made to and approved by the adult services program manager, or if they are unavailable, the adult services director, or designee, verbally. Once verbal approval is granted, the request for policy exception and all supporting information must be entered in CCWIS.

4.7 Payments by the Department

Generally, the Bureau for Social Services does not pay for services provided as a result of an APS case; however, there are certain situations when the department may consider authorization of payment in APS cases. The following sections detail the specific requirements related to authorization of payment.

Court Ordered Payments - General

The department may be ordered by the court to make payment on behalf of an APS or PAPS client. Whenever the department is court ordered to pay for services or fees, the client's case plan must address the efforts being made to obtain/access resources for the client, so they may assume this responsibility. Additionally, the APS worker should object and state reasons for the objection when the department is court ordered to pay for services, so their objections are noted in the court order. The APS worker will consult with their supervisor and follow regional protocol regarding contacting the Assistant Attorney General assigned to APS.

In cases where the department has been court ordered to make payment, the department should only be considered when the client does not have or cannot use resources of their own to cover the costs. Whenever possible, the client is expected to use their resources when these exist or can be obtained. Additionally, part of the worker's responsibility is to inform the court of resources available or potentially available to the client that may be used for this purpose. When appropriate, the worker should also request that the court order address reimbursement to the department by the client for the cost of services provided at such time as the client's resources become available (i.e. sale of real estate to generate funds to provide for the client's needs).

Court Ordered Payments – Required Procedures

Payment by the department of guardian ad litem fees is limited to APS cases involving the department seeking an Order of Attachment. In these instances, the department may be court ordered to pay the associated fees. Whenever the client does have resources to pay these fees, the APS worker is to request that the court require the client to assume financial responsibility for these costs.

If the department is required by court order to pay guardian ad litem or other fees, the request for payment is to be submitted, in writing, to the appropriate program manager for approval within six

months of occurrence. Specifically, the attorney is to submit an invoice and required documentation to the APS worker. The worker reviews the material submitted to verify accuracy and completeness and then, upon approval by the supervisor, forwards the request for payment to the appropriate program manager. Once approval is obtained, the payment request is to be forwarded to the Bureau for Social Services, Finance and Administration for processing of the payment. In addition to the written request, the following documentation must be provided by the worker:

- Cover memo stating that the client is an active recipient of APS.
- Court order which 1) has an embossed court seal, 2) has been signed by the judge, and 3) specifically states what costs the Bureau for Social Services is required to pay; and,
- Itemized invoice that meets the following requirements:

    Is on the guardian ad litem/provider's letterhead.

    Contains the FEIN or social security number of the guardian ad litem/provider.

    The total amount invoiced is identified and matches the amount specified in the court order.

    The specific amount(s) invoiced shall not exceed the current rates established by the public defender's office; and,

    In order to request reimbursement for this type of expense, it should be completed within six months after the hearing.

In addition, the APS worker may also open another program type for other services, such as Adult Residential placement or Substitute Decision-Maker. (payment is to be made at the department's established rate). A guardianship program type may at times result from APS intervention. A guardianship program type must be opened and the department will not pay for court appointed counsel to the protected person in guardianship proceedings. This payment, by statute, is to be paid from the estate or by the state Supreme Court (see W. Va. Code §44A-1-13 for further information). A demand payment for filing fees should be entered by the worker in CCWIS within the six months of occurrence.

Emergency Hospital/ Nursing Home Placement

Occasionally, it becomes necessary to arrange for placement in a hospital or nursing home of an APS client for whom Medicaid eligibility has not yet been established. If the nursing home or hospital will not admit the client pending Medicaid approval and if there are no other available resources, the Bureau for Social Services may authorize payment for the hospital or nursing home care for a brief period of time until Medicaid eligibility can be determined, or other appropriate funds are obtained. W. Va. Code §9-6-6 permits payment by the department in these instances. This option may be considered only under the following limited circumstances:

- When abuse, neglect, or financial exploitation has been substantiated.
- Prior to permanent placement, hospital admittance may be required to determine a client's level of care. When it has been determined that the adult appears to meet nursing home eligibility criteria, the worker will need to check to see if a Pre-Admission Screening-2000 (PAS-2000) has been approved within the past 60 days. If not, a PAS-2000 will have to be completed by a

physician and approved by Kepro, the Administrative Service Organization (ASO) tasked with eligibility determination for nursing home and waiver services.

- When there are no other available resources to assure the client's safety; and,
- When it is determined by the worker and their supervisor that this is the only way to ensure the victim's safety until permanent arrangements for their care can be made.

Approval for Emergency Hospital/Nursing Home Placement

Placement of an active APS client in a hospital or nursing home at the department's expense shall be considered only when all other options have been exhausted and this is being considered as a last resort to ensure the client's safety. Approval for payment of placement for an APS client must be obtained from the appropriate Adult Services Program Manager prior to placement. After verbal or written approval is obtained from the Adult Services Program Manager, the APS worker must submit a Policy Exception request in CCWIS. All requests for payment by the department for placement are to be time limited and, except in extraordinary circumstances, are not to exceed thirty days. Any time payment by the department beyond the initial approved 30-day timeframe is necessary, a second Policy Exception request for an additional 30 days must be submitted with a detailed explanation of why an extension is needed. This request must be submitted prior to the expiration of the initial 30-day timeframe and payment should be requested within six months of approval. During this time, the APS worker needs to assist the client with acquiring Medicaid. The initial and subsequent policy exception requests must include the following information, at a minimum:

- Client name.
- Explanation of why hospital/nursing home placement is needed.
- Amount of available financial resources.
- Other options explored/considered and reason(s) each was ruled out.
- Name of hospital/nursing home where client is to be placed.
- Length of stay at department's expense being requested - except in extraordinary circumstances, not to exceed 30 days.
- Plans for arranging for alternate placement/securing alternate funding for placement.
- Whether an application for other resources have been made such as Medicare, Medicaid, Social Security, Veteran's benefits, private funds/benefits, etc.; and,
- Other relevant information.

There are two situations where it may not be possible to submit a verbal or written request and obtain a response from the adult services program manager prior to placement. These are:

- If the need occurs during non-work hours; and,
- If the need occurs during normal work hours but the emergency situation is so serious that immediate action must be taken.

In the first instance listed, the supervisor may temporarily grant approval with a verbal approval and submit a written request for approval to the appropriate Adult Services program manager immediately upon return to the office. In the second instance listed, the supervisor may make a verbal request to the appropriate Adult Services program manager for payment of hospital/nursing home placement. If

granted, the written request, including a description of the emergency situation that prompted the verbal approval, in addition to the information listed above, must be submitted to the appropriate Adult Services program manager upon the APS worker's return to the office.

If approval for the policy exception is granted, the worker must diligently seek an alternate payment source for the client's cost of care. Examples of this include, but are not limited to, facilitating a Medicaid application, determining the client's monthly income and assets and who is the appropriate individual to authorize payment to the hospital/nursing home. Depending on the circumstances, the worker may need to request change of payee to the nursing home or file a petition for the Sheriff to be appointed as Conservator to access the client's income and/or assets. Also, during this 30-day period, the worker must make getting an approved PAS-2000 a priority.

The role of the program manager in these instances is for authorization of short-term payment for the emergency placement of an adult in the hospital or nursing home as a result of an APS investigation. Invoices from the hospital or nursing home for these placements will not be submitted to Finance and Administration for reimbursement until written documentation to support the invoice has been received by the appropriate program manager.

Invoicing for Hospital or Nursing Home Placement

To receive reimbursement for emergency hospital or nursing home placement of an APS client, the hospital or nursing home must submit an original invoice. The invoice must contain the following information, at a minimum:

- Client name.
- Name of facility.
- Signature of the individual authorized by the facility to submit invoices.
- Statement of daily rate for room and board (not to exceed the approved Medicaid rate).
- Date(s) of service (except in extraordinary situations, should not exceed 30 days, dates of service on the invoice should match the dates reflected in the approved request for payment); and,
- Total amount due.

Invoices are to be submitted through the APS worker and their supervisor to the appropriate adult services program manager for approval and processing within six months of service. As part of this submission the APS worker is to prepare a cover memo that indicates the date that the adult services program manager approval was granted and the period of time that was covered by the approval. The APS worker will also document all of this information into the CCWIS case, and upload the invoice and supporting documentation received.

Special Medical Authorization

Most adults who are served through APS will have or are eligible for some type of medical insurance coverage. If the client does not have coverage for necessary medical care (prescriptions and limited doctor visits), the APS worker must thoroughly explore all potential options for securing appropriate

medical coverage, such as the department's Bureau for Family Assistance (Medicaid), Social Security, community/civic organizations, family members, churches, Medicare, drug company assistance programs, samples from physicians, mental health agencies, health right clinics, etc. If, after this exploration, an active APS client requires medical services for limited doctor services, prescriptions, chux pads and disposable briefs, and does not have the resources available to obtain them, a Special Medical Authorization may be requested to cover the cost of eligible services at a rate not to exceed the current Medicaid rate. For clients that are 65 years of age or older, the Special Medical card will not cover any prescriptions that are covered under Medicare Part D, regardless of whether the client is enrolled in or receiving Medicare Part D; therefore, the Special Medical Card must not be issued for any prescriptions covered by Medicare Part D.

The Special Medical Authorization may be used to cover certain medical costs; however, all Medicaid eligible services are not necessarily covered by this authorization. The Special Medical Authorization is to be used to provide for limited doctor visits and prescriptions needed to treat an emergency or to prevent a medical emergency from occurring. Examples of costs that are typically covered are medication and limited doctor visits, chux pads and disposable briefs. Examples of costs not covered include emergency room, hospitalization, nursing home placement, psychiatric/behavioral health services/treatment, dental work, corrective eyeglasses, outpatient surgery, diagnostic testing, etc.

To request the Special Medical Authorization, the worker must prepare the request in CCWIS and submit it to the supervisor for review and approval. When requesting a Special Medical Authorization, the following information must be documented in CCWIS:

- Client's goal related to providing the requested services.
- List the specific service(s) payment is being requested for and the associated cost(s) (cannot exceed current Medicaid rate).
- Statement of verification that all potential resources have been explored and there are no other resources available to meet the cost.
- Anticipated duration of request (not to exceed thirty days).
- Name of provider.
- Client income amount and source; and,
- Any other relevant information.

Ideally this information should be documented in summary form as a contact, "other" type, in addition to documentation, as appropriate, in other areas of CCWIS (i.e., income information would also be recorded on income screens; information related to goals would be documented on the case plan screens). In a situation where a client needs services from more than one vendor (i.e., an office visit with a physician and prescriptions from a pharmacy), a separate Special Medical Authorization request will be required for each vendor.

If Approved

Once approved by the supervisor, the APS worker will print a copy of the authorization letter and review it to ensure the information is complete and accurate. Upon completion of this review, the authorization

is to be saved and uploaded to CCWIS. Finally, the worker will furnish the authorization letter to the vendor(s) who will be providing the service.

Vendors need to be made aware there is generally a delay of about five working days between when the Special Medical Authorization is generated by the Bureau for Social Services and when this information is received by the Bureau for Medical Services. Therefore, if the Special Medical Authorization is used immediately upon issuance, the vendor may need to wait a few days to submit the request for reimbursement, otherwise, Medicaid may not have received verification that the service has been authorized.

If Denied

If a request is denied, the APS worker may provide additional information and re-submit the request if the denial was based upon insufficient information; otherwise, other alternate resources must be sought to cover the services requested.

It is important to note that if the APS case is closed and the Special Medical Authorization is still in effect, the worker must send written notification to the vendor, the client or their legal representative, and the Bureau for Medical Services advising them that the authorization is no longer in effect and the date on which coverage ends.

Other Payments

Other payments that may be considered emergent in nature may include, but are not limited to food, identification card, birth certificate, etc. Prior supervisory approval must be verbal and/or written. If granted, the policy exception must include a description of the emergency situation that prompted the verbal approval and must be submitted to the appropriate program manager. If the policy exception is granted, the APS worker must diligently seek an alternate payment source for future client needs.

In the case of an out-of-state birth certificate, the APS worker can request their Financial Clerk to pay by check, and reimbursement will be made by entering a demand payment in CCWIS.

4.8 Transfer of Cases Between Counties

Though the need for transfer of an APS case will be rare, there may be situations when it must be transferred from one county to another. Whenever it is necessary to transfer a case from one county to another, this is to be a planned effort with close coordination between the sending county and the receiving county. Here is an example of an APS case transfer: an APS client is placed in a nursing home in a different county from where the APS report was received and payment has been authorized under the case, and this payment is anticipated to go on for an extended period of time while benefits are applied for and approved. After the original county has arranged for the placement and received initial authorization for payment of the nursing home placement, the APS case may be transferred to the county in which the nursing home is located.

The APS case is not to be transferred if the placement is a temporary arrangement (substance abuse treatment, inpatient psychiatric care, acute care hospital admission, etc.). In these instances, the originating county is to continue to carry the case. If there are times when it is a hardship for the county responsible for the case to maintain contact with the client as required, the supervisor may arrange with the Adult Services supervisor in the county where the facility is located to do a courtesy visit.

Timing of Transfers

It is recommended that case transfers be planned for the beginning or end of a month to minimize confusion related to payment, if applicable.

Sending County Responsibilities

When it is necessary to transfer an APS case from one county to another, the sending county is responsible for completing the following tasks:

- Prior to arranging or completing a transfer to a provider in another county, the sending supervisor must contact the supervisor in the receiving county to notify them that a client is being transferred to their county.
- Provide a summary about the client's needs (i.e., reason for the transfer, problems in other settings, disturbing behaviors, family and financial resources, insurance coverage, and legal representative(s), if applicable).
- Complete all applicable case documentation prior to case transfer.
- Immediately upon transfer of the client to the receiving county, send the updated client record paper and CCWIS to the receiving county; and,
- Notify the department's Family Assistance staff, the Social Security Administration office, and all other appropriate agencies of the client's change of address.

Receiving County Responsibilities

The receiving county is responsible for completing the following tasks in preparation for the transfer:

- Notify the department's Family Assistance staff of the client's arrival when the transfer is complete.
- Complete all applicable documentation; and,
- Assist with arranging or initiating any needed community resources.

When an APS case is transferred from one county to another, problems that arise during the first 30-day period following the transfer are to be addressed jointly between the counties. When this occurs, the receiving county may request assistance from the sending county. If such a request is received, the sending county is to work cooperatively with the receiving county to resolve the problem(s). The APS worker should maintain frequent contact during this initial adjustment period to ensure a smooth transition. This will permit timely resolution of problems that may occur during this time.

4.9 Case Review

Evaluation and monitoring of the APS or PAPS case and the progress being made should be a dynamic process and ongoing throughout the life of the case. For APS and PAPS, frequent monitoring is essential since both are short-term services. Face-to-face contact is required monthly and must be documented in CCWIS within three business days. In unique situations, it may not be possible to complete all necessary tasks to resolve the abuse, neglect, or financial exploitation, or risk within specified time frames. If this occurs, an extension must be requested by the APS worker to exceed the allowed time.

Timeframes

The purpose of Case Review is to consider and evaluate progress made toward resolution of the abuse, neglect, or financial exploitation. Re-examination of the case plan is a primary component of the review process and must be completed every three months. The APS worker must consider issues such as progress made, problems or barriers encountered, effectiveness of the current plan in addressing the identified problem areas, and if modifications are needed.

Extensions

In extenuating circumstances, it may be necessary to keep the APS case open beyond the maximum of 12 months or the PAPS case beyond the maximum of six months to resolve the abuse, neglect, or financial exploitation, or risk of abuse, neglect, or financial exploitation. If an extension is necessary, the APS worker must request a policy exception to go beyond the maximum time frames. This request must be submitted prior to the end of the deadline for APS or PAPS case closure. If approved, the extension must be time limited. Policy exceptions will not exceed 30 days per request. If more time is needed, a second policy exception must be requested prior to the expiration of the original policy exception that was granted. A policy exception request must include the following, at a minimum:

- Explanation of why extension is being requested.
- Explanation of why required time frames cannot be met.
- Efforts to date to resolve the risk.
- Barriers encountered preventing completion of the plan within the allowed time frame.
- Duration of extension being requested.
- Plans to resolve the outstanding issues during the extension period, if granted.
- Anticipated impact if the policy exception is not granted; and,
- Other relevant information.

If the request for a policy exception is denied, the APS worker must proceed to case closure.

Conducting the Review

A formal review of the APS/PAPS case must be completed every three months and just prior to case closure. The review process consists of evaluating progress toward the goals identified in the current case plan. This requires the APS worker to review the case plan and have face-to-face contact with the client and caregiver. Follow-up with other individuals and agencies involved in implementing the case

plan, such as service providers, must also be completed. During the review process, the worker is to determine the following:

- Extent of progress made toward goal achievement.
- If the identified goals continue to be appropriate and, if not, what changes or modifications are needed.
- Barriers to achieving the identified goals; and,
- Other relevant factors.

Documentation of Review

At the conclusion of the review process, the APS worker must document the findings in CCWIS. This includes reviewing the case plan and ending any goals that have been achieved or are to be discontinued or modified for some other reason(s). Goals that have not been end dated will be continued on the new case plan and additional goals may be added as appropriate. Documentation of each contact made in completion of the review is to be recorded as soon as possible.

When completed, the APS worker must submit the review and new case plan to the supervisor for approval. Once approved, the APS worker needs to secure all required signatures. Finally, the APS worker must provide a copy of the case plan to the client and to all signatories. The original signed case plan is to be filed in the client's case record.

SECTION 5 - CASE CLOSURE

5.1 Introduction

A final assessment must be completed as part of the case review process prior to closure of the case. When completing the final assessment, the elements that led to the opening of the APS or PAPS case should again be considered and evaluated based upon current information.

Upon completion, the APS worker must document the results of this assessment in CCWIS and submit to the supervisor for approval of recommendation for case closure. When the need for aftercare is identified, the APS worker and the client will work together to develop an aftercare plan, if requested by the client.

5.2 Purpose

The decision to close the APS or PAPS case is to be determined through the case review process. At the point in time that the client is no longer at risk of abuse, neglect, or financial exploitation, the client appears to have mental capacity and requests closure, or upon death of the client, the worker is to recommend closure of the APS/PAPS case. Other services will continue as necessary, if appropriate. The review and the reason(s) for case closure are to be documented in CCWIS. Upon completion of the review, the worker will send their recommendation and case review to the supervisor for approval. Once approved by the supervisor, the case is to be closed.

5.3 Purging of APS Records

In accordance with W. Va. Code §9-6-8, case records of individuals who have received Adult Protective Services shall be destroyed 30 years following their preparation.

SECTION 6 - NONDISCRIMINATION, PROCEDURE & DUE PROCESS STANDARDS, REASONABLE MODIFICATION POLICIES, AND CONFIDENTIALITY

6.1 Nondiscrimination

As a recipient of Federal financial assistance, the Bureau for Social Services (BSS) does not exclude, deny benefits to, or otherwise discriminate against any person on the ground of race, color, national origin, disability, age, sex, religion or creed in admission to, participation in, or receipt of the services and benefits under any of its programs and activities, whether carried out by BSS directly or through a contractor or any other entity with which BSS arranges to carry out its programs and activities.

This statement is in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (nondiscrimination on the basis of race, color, national origin) ("Title VI"), Section 504 of the Rehabilitation Act of 1973 (nondiscrimination on the basis of disability) ("Section 504"), the Age Discrimination Act of 1975 (nondiscrimination on the basis of age) ("Age Act"), regulations of the U.S. Department of Health and Human Services issued pursuant to these three statutes at Title 45 Code of Federal Regulations Parts 80, 84, and 91.

The Bureau for Social Services shall not retaliate against, intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, Section 504 or the Age Act, or because she or he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing.

In addition, BSS will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all BSS programs, services, and activities. For example, individuals with service animals are welcomed in the Department of Human Services, BSS, offices even where pets are generally prohibited.

In case of questions, or to request an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a BSS program, service, or activity, please contact:

Children and Adult Services
Section 504/ADA Coordinator
350 Capitol St. Rm 691
Charleston, WV 25301
(304) 558-7980

6.2 Non-Discriminatory Placement Protocol

The department ensures that all parties involved in adult welfare programs have equal opportunities. All potential placement providers for vulnerable adults, are afforded equal opportunities, free from discrimination and protected under the Americans with Disabilities Act (ADA). The department will not deny a potential placement provider the benefit of its services, programs, or activities due to a disability.

Under the Americans with Disabilities Act it defines a person with a disability as:

> "An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment."

The ADA does not specifically name all the impairments that are covered. The ADA does not allow a person to be discriminated against due to a disability in employment, state and local government activities, public transportation accommodations, telecommunication relay services, fair housing, air carrier access, voting accessibility or education. Examples of disabilities include physical disabilities which require auxiliary aids and mental health issues. Those persons with substance use disorders, including opioid use disorder, currently participating in a treatment option such as Medication Assisted Treatment (MAT), are also covered by the ADA. Participation in a MAT program is not considered the illegal use of drugs. Qualifying MAT programs are defined in W. Va. Code §16-5Y-1, *et seq.* The ADA also addresses the civil rights of institutionalized people and architectural barriers that impact people with disabilities.

When making diligent efforts to locate and secure appropriate placement for vulnerable adults, a worker cannot discriminate against a potential placement based upon a person with a disability according to the Americans with Disabilities Act (ADA) Title II. The department shall determine if the potential placement for the vulnerable adult represents a direct threat to the safety of the adult. Safety threat decisions will be based on assessment of the individual and the needs of the vulnerable adult, as the safety of the adult always remains at the forefront of the determination of the best interest of an adult, when placing a vulnerable adult in anyone's home. This determination cannot be based on generalizations or stereotypes of individuals.

If a provider protected under the ADA is identified as an appropriate and best interest placement for a vulnerable adult they may, at some point, require services specific to their disability in order to preserve the placement. In such situations, consideration for services must be given if it is in the best interest of the adult to preserve the placement. Any specific auxiliary aids or services should be determined by the worker at no cost to the provider and should be considered on a case-by-case basis.

6.3 Complaint Procedure and Due Process Standards

A: Complaints Based on Disability or other Forms of Discrimination

It is the policy of the West Virginia Department of Human Services (DHS), not to discriminate on the basis of race, color, national origin, disability, age, sex, religion, or creed. DHS has adopted an internal complaint procedure providing for prompt, equitable resolution of complaints alleging discrimination. Laws and Regulations, 28 C.F.R. Part 35 and 45 C.F.R. Part 84, may be examined by visiting

https://www.ada.gov/reg3a.html. Additional laws and regulations protecting individuals from discrimination in adult welfare programs and activities may be examined by visiting the U.S Department of Health and Human Services website at https://www.hhs.gov/civil-rights/for-individuals/special-topics/adoption/index.html.

Any person who believes someone has been subjected to discrimination on the basis of race, color, national origin, disability, age, sex, religion, or creed may file a complaint under this procedure. It is against the law for the Bureau for Social Services, including employees, contracted providers or other BSS representatives, to retaliate in any way against anyone who files a complaint or cooperates in the investigation of a complaint.

Procedure

Complaints due to alleged discriminatory actions must be submitted to the West Virginia Office of Shared Administration, Office of Human Resources Management Services, Equal Employment Opportunity (EEO)/Civil Rights Officer within 60 calendar days of the date the person filing the complaint becomes aware of the alleged discriminatory action.

The complainant may make a complaint in person, by telephone, by mail, or by email. To file the complaint by mail or email, a Civil Rights Discrimination Complaint Form, IG-CR-3 (See Appendix A) must be completed and mailed or emailed to the West Virginia Office of Shared Administration,, Office of Human Resources Management, EEO/Civil Rights Officer, One Davis Square, Suite 400, Charleston, WV 25301 or email at OSACivilRights@WV.Gov. If the complainant requires assistance completing the IG-CR-3 form, they may request assistance from the department. The complaint must state the problem or action alleged to be discriminatory and the remedy or relief sought. The complainant may also contact the EEO/Civil Rights Officer, for more information.

West Virginia Office Of Shared Administration
Office of Human Resources Management
EEO/Civil Rights Officer
One Davis Square, Suite 400, Charleston, WV 25301
OSACivilRights@WV.Gov

The EEO/Civil Rights Officer shall conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The EEO/Civil Rights Officer will maintain the files and records of Bureau for Social Services relating to such complaints. To the extent possible, and in accordance with applicable law, the EEO/Civil Rights Officer will take appropriate steps to preserve the confidentiality of files and records relating to complaints and will share them only with those who have a need to know.

The EEO/Civil Rights Officer shall issue a written decision on the complaint, based on the preponderance of the evidence, no later than 30 calendar days after its filing, including a notice to the complainant of his or her right to pursue further administrative or legal remedies. If the EEO/Civil Rights Officer documents exigent circumstances requiring additional time to issue a decision, the EEO/Civil Rights

Officer will notify the complainant and advise them of his or her right to pursue further administrative or legal remedies at that time while the decision is pending. The person filing the complaint may appeal the decision of the EEO/Civil Rights Officer by writing to the Director of Human Resources within 15 calendar days of receiving the EEO/Civil Rights Officer's decision. The Director of Human Resources shall issue a written decision in response to the appeal no later 30 calendar days after its filing.

The person filing the complaint retains the right to file a grievance with the U.S. Department of Health and Human Services, Office for Civil Rights, regardless of the decision made by the West Virginia Department of Human Services.

The availability and use of this procedure does not prevent a person from pursuing other legal or administrative remedies, including filing a complaint of discrimination on the basis of race, color, national origin, disability, age, sex, religion or creed in court or with the US Department of Health and Human Services, Office for Civil Rights. A person can file a complaint of discrimination electronically through the Office for Civil Rights Complaint portal at: https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf or by mail or by phone at:

U.S. Department of Health & Human Services
Office for Civil Rights
200 Independence Ave., S.W.
Room 509F HHH Bldg.
Washington, D.C. 20201
800-368-1019 (voice) 800-537-7697 (TDD)
OCRComplaint@hhs.gov

For complaints to the Office for Civil Rights, complaint forms are available at: https://www.hhs.gov/ocr/complaints/index.html. Complaints shall be filed within 180 calendar days of the date of the alleged discrimination.

The Bureau for Social Services will make appropriate arrangements to ensure that individuals with disabilities and individuals with Limited English Proficiency are provided auxiliary aids and services or language assistance services, respectively, if needed, to participate in this process. Such arrangements may include, but are not limited to, providing qualified interpreters, providing recorded material for individuals with low vision, or assuring a barrier-free location for the proceedings. The EEO/Civil Rights Officer will be responsible for such arrangements.

B: Grievances Regarding the Adult Services Worker or Casework Process

At any time that the Bureau for Social Services is involved with a client, the client, or the counsel for the vulnerable adult has a right to express a concern about the manner in which they are treated, including the services they are or are not permitted to receive.

Whenever a vulnerable adult or counsel for the vulnerable adult has a complaint about Adult Services or expresses dissatisfaction with Adult Services the worker will:

- Explain to the client the reasons for the action taken or the position of the BSS which may have resulted in the dissatisfaction of the client.
- If the situation cannot be resolved, explain to the client his/her right to a meeting with the supervisor.
- Assist in arranging for a meeting with the supervisor.

The supervisor will:

- Review all reports, records and documentation relevant to the situation.
- Determine whether all actions taken were within the boundaries of the law, policies and guidelines for practice.
- Meet with the client.
- If the problem cannot be resolved, provide the client with the form "Client and Provider Hearing Request", IG-BR-29 .
- Assist the client with completing the IG-BR-29, if requested.

Submit the form immediately to the Chairman, state board of Review, DoHS, Building 6, Capitol Complex, Charleston, WV 25305.

For more information on Grievance Procedures for Social Services please see Common Chapters Manual, Chapter 700, and Subpart B or see W.Va. Code §29A-5-1.

Note: Some issues such as the decisions of the Circuit Court cannot be addressed through the Grievance Process. Concerns about or dissatisfactions with the decisions of the Court including any approved Case plan must be addressed through the appropriate legal channels.

6.4 Reasonable Modification Policy

A: Purpose

In accordance with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (ADA), the Bureau for Social Services shall not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. The BSS shall make reasonable modifications in Adult Services program policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless BSS can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

B: Policy

DoHS is prohibited from establishing policies and practices that categorically limit or exclude qualified individuals with disabilities from participating in the BSS Adult Services program.

The Bureau for Social Services will not exclude any individual with a disability from the full and equal enjoyment of its services, programs, or activities, unless the individual poses a direct threat to the health

or safety of themselves or others, that cannot be mitigated by reasonable modifications of policies, practices or procedures, or by the provision of auxiliary aids or services.

The Bureau for Social Services is prohibited from making Adult Services program application and retention decisions based on unfounded stereotypes about what individuals with disabilities can do, or how much assistance they may require. The BSS will conduct individualized assessments of qualified individuals with disabilities before making Adult Services application and retention decisions.

The Bureau for Social Services may ask for information necessary to determine whether an applicant or participant who has requested a reasonable modification has a disability-related need for the modification, when the individual's disability and need for the modification are not readily apparent or known. BSS will confidentially maintain the medical records or other health information of Adult Services program applicants and participants.

The Bureau for Social Services upon request, will make reasonable modifications for qualified Adult Service program applicants or participants with disabilities unless BSS can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. Individuals do not need to reference Section 504 or Title II or use terms of art such as "reasonable modification" in order to make a request. Further, BSS staff are obligated to offer such reasonable accommodations upon the identification of a qualifying disability or to an individual with Limited English Proficiency.

BSS must consider, on a case-by-case basis, individual requests for reasonable modifications in its Adult Services programs, including, but not limited to, requests for substitute caregivers, respite caregivers, more frequent support from a case worker, additional classroom and/or online training, mentorship with an experienced foster/adoptive parent, note takers, and other auxiliary aids and services. When auxiliary aids or language interpretation services to ensure effective communication for individuals with hearing, vision, speech impairments, or Limited English Proficiency (LEP) are needed, they shall be provided to the participant at no additional costs. DoHS evaluates individuals on a case-by-case basis to provide auxiliary aids and services as necessary to obtain effective communication. This would include but not be limited to:

- Services and devices such as qualified interpreters, assistive listening devices, note takers, and written materials for individuals with hearing impairments.
- And qualified readers, taped texts, and Brailed or large print materials for individuals with vision impairments.
- Access to language and interpretation services.

For more information on obtaining auxiliary aids, contact:

Center for Excellence in Disabilities (CED)
959 Hartman Run Road
Morgantown, WV 26505
Phone: 304-293-4692.
Toll Free: (888) 829-9426

TTY: (800) 518- 1448

For language translation and interpretation services Adult Services may Contact 911 Interpreters or the Section 504/ADA Coordinator (see also section 11.5 Limited English Proficiency). To contact 911 Interpreters, utilize the information below:

911 Interpreters Inc.
1-855-670-2500
BSS Code: 16233

When requesting language translation services directly through 911 Interpreters, staff must report the accommodation to the Section 504/ADA Coordinator by completing the *Reasonable Accommodation Reporting Form*.

The Bureau for Social Services will not place a surcharge on a particular qualified individual with a disability or any group of qualified individuals with disabilities to cover the cost of measures, such as the provision of auxiliary aids and services or program accessibility, that are necessary to provide nondiscriminatory treatment required by Title II of the ADA and Section 504.

To address any violations of this Reasonable Modification Policy, consult the Bureau for Social Services Grievance Procedure. To request reasonable modifications, or if you have questions, please contact:

Children and Adult Services
Section 504/ADA Coordinator
350 Capitol St. Rm 691
Charleston, WV 25301
(304) 558-7980
DHHRCivilRights@WV.Gov (email)

Staff who make reasonable accommodations for an individual must be reported to the Section 504/ADA Coordinator utilizing the *Reasonable Accommodation Reporting Form*.

6.5 Limited English Proficiency

The Bureau for Social Services (BSS) will take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in our services, activities, programs and other benefits. The policy of BSS is to ensure meaningful communication with LEP clients and their authorized representatives involving their case. The policy also provides for communication of information contained in vital documents, including but not limited to, information release consents, service plans, etc. All interpreters, translators and other aids needed to comply with this policy shall be provided without cost to the person being served, and clients and their families will be informed of the availability of such assistance free of charge. Language assistance will be provided through use of contracted vendors, technology, or telephonic interpretation services. All staff will be provided notice of this policy and procedure, and staff that may have direct contact with LEP individuals

will be trained in the effective use of an interpreter and the effective use of technology including telephonic interpretation services. The Bureau for Social Services will conduct a regular review of the language access needs of our population, as well as update and monitor the implementation of this policy and these procedures, as necessary.

Procedures:

1. IDENTIFYING LEP PERSONS AND THEIR LANGUAGE

The Bureau for Social Services will promptly identify the language and communication needs of the LEP person. If necessary, staff will use a language identification card (or "I speak cards," available online at www.lep.gov) or posters to determine the language. In addition, when records are kept of past interactions with clients or family members, the language used to communicate with the LEP person will be included as part of the record.

2. OBTAINING A QUALIFIED INTERPRETER

911 Interpreters Inc. has agreed to provide qualified interpreter services. The agency's telephone number is 1-855-670-2500 (BSS Code: 16233). Interpretation services are available 24 hours a day. Some LEP persons may prefer or request to use a family member or friend as an interpreter. However, family members or friends of the LEP person will not be used as interpreters unless specifically requested by that individual and **after** the LEP person has understood that an offer of an interpreter at no charge to the person has been made by the facility. Such an offer and the response will be documented in the person's file. If the LEP person chooses to use a family member or friend as an interpreter, issues of competency of interpretation, confidentiality, privacy, and conflict of interest will be considered. If the family member or friend is not competent or appropriate for any of these reasons, BSS will provide qualified interpreter services to the LEP person free of charge. Children and other clients will **not** be used to interpret, in order to ensure confidentiality of information and accurate communication.

3. PROVIDING WRITTEN TRANSLATIONS

When translation of vital documents is needed, BSS will submit documents for translation to 911 Translators Inc. or the Section 504/ADA Coordinator**.** BSS will generally provide language services in accordance with the following guidelines:

(a) BSS will provide written translations of vital documents for each eligible LEP language group that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

(b) If there are fewer than 50 persons in a language group that reaches the five percent threshold in (a), BSS will not translate vital written materials but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

Additionally, when making a determination as to what languages services will provided, BSS may consider the following factors: (1) the number and or proportion of LEP persons eligible to be served or

likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and (4) the resources available to the grantee/recipient and costs.

Documents being submitted for translation will be in final, approved form with updated and accurate information. Staff who utilize 911 Translators must report the utilization using the *Reasonable Modification Reporting Form* to the Section 504/ADA Coordinator.

Documents being submitted for translation will be in final, approved form with updated and accurate information. Staff who utilize 911 Translators must report the utilization using the *Reasonable Modification Reporting Form* to the Section 504/ADA Coordinator.

4. PROVIDING NOTICE TO LEP PERSONS

The Bureau for Social Services will inform LEP persons of the availability of language assistance, free of charge, by providing written notice in languages LEP persons will understand. At a minimum, notices and signs will be posted and provided in DoHS office lobbies and waiting areas. Notification will also be provided through one or more of the following: outreach documents and program brochures.

5. MONITORING LANGUAGE NEEDS AND IMPLEMENTATION

On an ongoing basis, BSS will assess changes in demographics, types of services or other needs that may require reevaluation of this policy and its procedures. In addition, BSS will regularly assess the efficacy of these procedures, including but not limited to mechanisms for securing interpreter services, equipment used for the delivery of language assistance, complaints filed by LEP persons, feedback from clients and community organizations, etc.

APPENDIX A WVDoHS CIVIL RIGHTS DISCRIMINATION COMPLAINT FORM

WEST VIRGINIA DEPARTMENT OF HUMAN SERVICES

STATE OF WEST VIRGINIA
DEPARTMENT OF HUMAN SERVICES
BUREAU FOR SOCIAL SERVICES

Civil Rights Discrimination Complaint Form

Complainant First Name		Complainant Last Name
Home Phone *(include area code)*		Work Phone *(include area code)*
Street Address		City
State	Zip Code	Email *(if available)*

Is this complaint being completed by someone other than the complainant? ☐ Yes ☐ No

If yes, please provide your information below:

First Name	Last Name	Telephone Number (include area code)

The complainant feels they have been discriminated against on the basis of:

☐ Race/Color/National Origin ☐ Religion/Creed ☐ Sex

☐ Disability ☐ Age

Who or what bureau within the West Virginia Department of Health and Human Resources is believed to have been discriminatory?

Name/Bureau/Office		
Street Address	City	County
Zip Code	Telephone	

Date(s) discriminatory action is believed to have occurred:

Which program(s) is the complainant alleging the discriminatory action took place in?

☐ Child Welfare *(includes CPS, Youth Services, Foster Care, Adoption, home finding, and Legal Guardianship)*

☐ Adult Welfare *(includes APS, Guardianship, Health Care Surrogate, Residential Services Request to Receive and Request to Provide)*

☐ Low Income Energy Assistance Program (LIEAP)

☐ Temporary Assistance for Needy Families (TANF)

☐ School Clothing Voucher

☐ Indigent Burial

Complaints involving the Supplemental Nutrition Assistance Program (SNAP) must be sent directly to the U.S. Department of Agriculture. See below for more information.

Describe briefly what happened. How and why does the complainant believe they have been discriminated against? What is the relief or remedy sought by the complainant?

(*Attach additional pages as needed.)*

Please sign and date this form. If submitting by email, you may type your name and date. Your email will represent your signature.

Signature	**Date** (mm/dd/yyyy)

The West Virginia Department of Human Services shall not retaliate against, intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title VI, Section 504 or the Age Act, or because she or he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing.

EEO/Civil Rights Officer shall conduct an investigation of the complaint. This investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. EEO/Civil Rights Officer will maintain the files and records of DoHS relating to such grievances. The EEO/Civil Rights Officer shall issue a written decision on the complaint no later than thirty (30) calendar days after its filing, unless the Coordinator documents exigent circumstances requiring additional time to issue a decision. To submit this complaint or request additional information, please contact:

West Virginia Office Of Shared Administration
Office of Human Resources Management
EEO/Civil Rights Officer
One Davis Square, Suite 400, Charleston, WV 25301
OSACivilRights@WV.Gov

The person filing the grievance retains the right to file a grievance with the U.S. Department of Health and Human Services, Office for Civil Rights, regardless of the decision made by the West Virginia Department of Human Services.. The availability and use of this grievance procedure does not prevent a person from filing a private lawsuit in Federal court or a complaint of discrimination on the basis of being a member of a protected class, with the:

U.S. Department of Health & Human Services
200 Independence Ave., S.W.
Room 509F HHS Bldg.
Washington, D.C. 20201
800-368-1019 (voice)
202-619-3818 (fax)
800-537-7697 (TDD)
OCRComplaint@hhs.gov (email)
The complaint form may be found at https://www.hhs.gov/ocr/complaints/index.html

For SNAP complaints, please contact the U.S. Department of Agriculture.

The USDA Program Discrimination Complaint Form, can be found online at: https://www.ocio.usda.gov/document/ad-3027, or at any USDA office. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form by mail, email, or fax to:
U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW Washington, D.C. 20250-9410
(202) 690-7442 (fax)
(866) 632-9992 (telephone)
program.intake@usda.gov (email)

APPENDIX B FINANCIAL SERVICES MODERNIZATION ACT

The Financial Services Modernization Act passed in 1999 (often known as the Gramm-Leach-Bliley Act or GLBA). The GLBA contains strong privacy protection. It requires notification to customers before disclosures of their records and an opportunity to disapprove the proposed disclosure. However, Section 502(e) of the GLBA contains exceptions to this privacy protection. Three are relevant to state reporting programs:

- (e)(3)(B) permits disclosure "to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability."

- (e)(5) permits disclosure, "to the extent specifically permitted or required under other provision of law…to law enforcement agencies…or for an investigation on a matter related to public safety".

- (e)(8) permits disclosure "to comply with Federal, State or local laws, rules, and other applicable legal requirements."

APPENDIX C SIGNS OF FINANCIAL EXPLOITATION

The signs of financial exploitation may be subtle or blatantly obvious. This is not intended to be an all-inclusive list:

- Numerous cash withdrawals from a vulnerable adult's checking account in a short period of time, especially if inconsistent with previous spending habits;
- Signatures on checks, wills, powers of attorney or other documents that look forged, unusual or suspicious;
- Several checks that are used out of numerical order;
- Reports by the vulnerable adult or collaterals (i.e. friends, neighbors, relatives Senior Citizens Center, banks, etc.) that funds are missing from his or her account;
- Someone forcing, pressuring, or coercing the vulnerable adult into withdrawing large sums of cash from checking or savings accounts;
- A vulnerable adult applying for several new credit cards;
- An unexpected increase in ATM or credit card usage by a vulnerable adult;
- A vulnerable adult failing to understand recently completed financial transactions;
- A vulnerable adult making unusual changes to bank accounts;
- Having credit card statement sent to someone other than the vulnerable adult who is named on the account;
- Unexpected or unexplained changes by a vulnerable adult in account beneficiaries, property titles, deeds or other ownership documents;
- A vulnerable adult refinancing a mortgage;
- Abrupt and unexpected changes in a will, trust, power of attorney, or another legal document;
- A vulnerable adult who is unexpectedly and uncharacteristically unkempt, forgetful, disoriented;
- A vulnerable adult who is unexpectedly not meeting their financial obligations such as food, utilities, rent, mortgage payments, and/or medical expenses (health care or long-term care expenses, etc.);
- Substandard care being provided or bills unpaid despite the availability of adequate financial resources;
- Isolation
- Lack of knowledge about major financial issues;
- Sudden appearance of previously uninvolved relatives claiming their rights to a vulnerable individual's affairs and possessions; and,
- Provision of services that are not necessary.

APPENDIX D RIGHTS DURING THE APS PROCESS

Client's Rights During the APS Process

The West Virginia Department of Human Services, Adult Protective Services is mandated by the W. Va. Code §9-6-2 to conduct an investigation when a report of adult abuse, neglect or financial exploitation is received. When you are involved in an Adult Protective Services (APS) investigation or a case is open for APS services, there are certain rights you need to know about.

Some of those rights include:

- The right to object to someone coming into your home without your permission to conduct an investigation. If you refuse a face-to-face interview, law enforcement may be contacted for assistance and court intervention may be necessary to complete the investigation.
- The right to have certain information about you that APS has in their records kept private and confidential.
- The right to discuss the situation with the Adult Protective Services Supervisor if you have concerns with the manner in which the investigation was conducted.
- The right to refuse APS services, unless deemed incompetent by a court of law, and the right to know what may happen if you refuse; however, the APS worker is mandated by West Virginia Code to conduct the investigation.
- The right to have a decision made about you, free from discrimination because of your race, color, national origin, disability, age, sex, religion, or creed.
- You may have the right to request certain help for you if you have disabilities as defined by the Americans with Disabilities Act, when they are needed to help you with any hearing, vision or speech impairments during the APS process.
- The right to know if there will be an open Adult Protective Services case.

Please keep this list in a safe place where you can find it. If you have any questions in regard to your rights, you may contact your worker or the Adult Protective Services Supervisor. They are available to clarify any questions about your rights.

Worker's Name/ Telephone Number: _____

Supervisor's Name/ Telephone Number: _____

Alleged Maltreater's Rights During the APS Process

The West Virginia Department of Human Services, Adult Protective Services is mandated by the W. Va. Code §9-6-2 to conduct an investigation when a report of adult abuse, neglect or financial exploitation is received. When you are involved in an Adult Protective Services (APS) investigation, there are certain rights you need to know about.

Some of those rights include:

- The right to object to someone coming into your home without your permission to conduct an investigation.
- The right to have certain information about you that APS has in their records kept private and confidential.
- The right to discuss the situation with the Adult Protective Services Supervisor if you have concerns with the manner in which the investigation was conducted.
- The right to file a grievance if you disagree with a substantiated allegation.
- The right to have fair and reasonable decisions made about you, free from discrimination because of your race, color, national origin, disability, age, sex, religion, or creed.
- You have the right to request certain help for you if you have disabilities as defined by the Americans with disabilities Act, when they are needed to help you with any hearing, vision or speech impairments during the APS process.
- The right to know if the allegations against you as an alleged maltreater were substantiated, if you provide the Department of Human Services with a complete mailing address.

Worker's Name/ Telephone Number: _____

Supervisor's Name/ Telephone Number: _____

APPENDIX E DISPOSITION NOTIFICATION LETTER

Disposition of Referral/Investigation Report

Disposition of Referral

CCWIS Referral number:

Name of Client Referred: Date Received:

Address:

Action taken: _____ Referral Assigned for Investigation

_____ Referral Not Assigned for Investigation

Worker Assigned, if applicable:

Explanation (if not assigned): _____

Disposition of Investigation

_____ Investigation Completed on

_____ Investigation Not Completed due to Extenuating Circumstances

Remarks:

Worker: _____Date: _____

This information is confidential. It is provided to persons mandated to report by W. Va. Code §9-6-9 or §49-2-804.