



## General Overview

Individual abuse/neglect is **not** tolerated under any circumstances. Intentional action or inaction by anyone that results in abuse is prohibited. To protect the rights of the people we serve, as well as all Independent Contractors, it is the policy of HCBS Provider, Inc., to **immediately** report and/or investigate any allegations of individual abuse/neglect in a fair and consistent manner. It is imperative that agency staff err on the side of protecting the safety of people in our care. To that end it is critical that any issue that you consider unusual, or outside of the standards of normal behavior be immediately reported to Jennifer Shaffer, [jennifer@hcbsprovider.com](mailto:jennifer@hcbsprovider.com) and/or submit an incident report on the HCBS Provider website [www.hcbsprovider.com](http://www.hcbsprovider.com). An allegation of abuse may involve something you see, something you hear or something you learn about from others. The allegation may involve a staff member, another participant, a family member, or someone uninvolved with the individual. In other words, we need to be aware of potential abuse of an individual by anyone in any setting.

Any employee who witnesses or has knowledge of an act of abuse, alleged abuse, neglect, or any other reportable incident is required to report immediately to **Jennifer Shaffer or any member of the HCBS Provider Administrative Team**. Failure to do so is a serious violation of agency policy and is subject to disciplinary action, up to and including termination. Independent Contractors are protected by the agency “Whistle-blower” policy, which guarantees no reprisals will be brought by the agency against any Independent Contractor who reports abuse/neglect according to agency procedures. Upon receipt of any report of alleged individual abuse, Jennifer Shaffer makes all notifications required by regulation.

When reporting an abuse allegation to Jennifer Shaffer or an HCBS Administrative Team member, you will be asked to provide maximum cooperation. Your highest priority will be to ensure the safety of the participant who is allegedly being abused. Secondly, you will be asked to “secure the scene” when possible, to ensure that any evidence remains exactly as it was during the proposed incident when the Certified Investigator, or other appointed representative arrives to begin the investigation. You will be interviewed by the investigator and asked to provide a written statement of the incident.



Any alleged incident of physical or sexual abuse, or neglect, may result in the Administrative Director reporting the incident to the police department. All staff, including administrative, fiscal, and staff directly working with individuals, are trained in agency policies and procedures regarding incident management. There is an initial training during the new hire orientation, and an annual retraining thereafter. After each training, employees sign a statement that they have received instruction in and understand the policy and procedures. The signed statements are kept in the employee's personal file electronically.

Upon the initial selection of HCBS Provider, Inc as a service provider, and annually thereafter, either the individual participant or parent/guardian receives information regarding our incident management policies and procedures. These policies include an affirmation of our responsibility to notify law enforcement, a "no reprisal" statement assuring an individual reporter that he/she will not face reprisal by reporting abuse/neglect and a list of agencies a participant/family can contact if the participant/family suspects or experiences abuse/neglect.

Individuals/parents/guardians sign a statement for HCBS Provider, Inc. files that they have received this information. The signed statements will be kept in the individual participant's file electronically.

The reporting and investigative procedures follow proper adherence, ensure timeliness, accuracy, and appropriate documentation for all reportable incidents.

### **Office of Developmental Programs (ODP) Incident Management Procedures**

*These procedures are for the following services: Community Participation Supports, In Home Community Supports, Respite, Job Finding and Job Support, Companion, Behavioral.*

Programs that receive funding through the Office of Developmental Programs must follow Department of Human Services definitions and procedures. We are mandated reporters of suspected abuse and neglect occurring within our agency by employees, or outside of the agency, by others.



**Abuse is defined as:** a deliberate or careless act by a person, including another individual receiving services, which may result in mental or physical harm.

The Office of Developmental Programs recognizes five (5) types of abuse per the Incident Management Bulletin #00-21-02, effective July 1, 2021. They include:

**Misapplication/Unauthorized Use of Restraint (injury)**– The use of a restraint that does not follow ODP’s regulatory requirements, the misapplication of an approved restraint technique, or the use of a restraint that results in an injury requiring treatment beyond first aid. Examples include, but are not limited to, the following, all of which are prohibited:

Prone position physical restraints.

Any physical restraint that inhibits digestion or respiration, inflicts pain, causes embarrassment or humiliation, causes hyperextension of joints, applies pressure on the chest or joints or allows for a free fall to the floor.

Any physical restraint used more than 30 cumulative minutes within a two-hour period.

Chemical restraints

Mechanical restraints

**Misapplication/Unauthorized Use of Restraint (no injury)** – The use of a restraint that does not follow ODP’s regulatory requirements or the misapplication of an approved restraint technique. Examples include, but are not limited to, the following, all of which are prohibited:

Prone position physical restraints

Any physical restraint that inhibits digestion or respiration, inflicts pain, causes embarrassment or humiliation, causes hyperextension of joints, applies pressure on the chest or joints or allows for a free fall to the floor

Any physical restraint that is used more than 30 cumulative minutes within a two-hour period

Chemical restraints

Mechanical restraints

**Physical** – An act which causes or may cause physical injury to an individual, such as striking or hitting. Physical injuries may or may not be present with physical abuse. Allegations of physical acts without obvious signs of injury must be reported. Monitoring or body checks may be necessary to look for signs of injury after initial discovery of the incident. In addition, injuries



attributed to a staff person or another individual receiving services that require treatment beyond first aid or an inpatient admission to a hospital are to be reported as abuse.

If the incident involved an injury, common examples of situations that may be present with physical abuse include, but are not limited to:

A patterned bruise, no matter its size, that is in the shape of an identifiable object such as a belt buckle, shoe, hanger, fingermark, etc.

Unexplained serious injuries or multiple bruises, cuts, abrasions.

A spiral fracture.

Dislocated joints.

Bilateral bruising, which is bruising on both sides of the body (e.g., the top of both shoulders, both sides of the face or inside of both thighs).

Bruising to an area of the body which does not typically or easily bruise (e.g., midline stomach, breasts, genitals, inner thighs, or middle of the back).

Injuries that are not consistent with what is reported to have happened.

Injuries explained as caused by self-injury to parts of the body the individual has not previously injured or cannot access.

**Psychological** – An act which causes or may cause mental or emotional anguish by threat, intimidation, humiliation, isolation, or other verbal or nonverbal conduct to diminish another.

Examples include, but are not limited to:

Bullying, rejecting, degrading, and terrorizing acts.

Disregard for privacy during personal care.

Paid caregiver ignoring an individual, including, but not limited to:

Active ignoring (that is not part of an approved plan) such as ignoring a call or request for help/assistance.

Passive acts, such as non-essential use of a cellphone (or another electronic device), watching TV, etc.

Threats of isolation.

Yelling, name-calling, blaming, and shaming.

Mimicking or mocking an individual's voice, speech, behaviors, etc.

Statements that are intended to humiliate or infantilize, including insults, threats of abandonment or institutionalization and other controlling, dominant or jealous behavior.



The act of taking, transmitting, or displaying an electronic image (in any medium including social media, personal computers, cell phones, etc.) of an individual that is intended to shame, degrade, humiliate, or otherwise harm the personal dignity of an Individual.

When an individual witnesses an incident for which they were not the intended victim, but it causes or has caused mental or emotional anguish.

**Seclusion** – The involuntary confinement of an individual in an area from which the individual is prevented from leaving. This includes verbal instruction or any explicit or implicit intimidation that indicates to an individual that they may not leave a room, regardless of whether the individual has the ability to physically remove himself or herself from the situation.

Examples include, but are not limited to, the following prohibited acts:

Placing an individual in a locked room. A locked room includes a room with any type of engaged locking device such as a key lock, spring lock, bolt lock, foot pressure lock, device or object, or a person physically holding the door shut.

Placing an individual in a room from which they are unable to exit independently due to the general accessibility of the room (i.e. wheelchair ramps, transitions, etc.), features of the door hardware (i.e. handles that do not meet the accessibility needs of the individual), or any other obstacle that prevents an individual from exiting.

**Sexual Abuse** - Any attempted or completed nonconsensual sexual act. The act may be physical or non-physical and achieved by force, threats, bribes, manipulation, pressure, tricks, violence or against an individual who is unable to consent or refuse. Sexual abuse includes any sexual act or attempted act between a paid service provider staff and an individual regardless of consent on the part of the individual.

**Rape** - The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of an individual. This includes when an individual was made, or there was an attempt to make the individual, penetrate another person (including the target).



**Sexual Harassment** - Sexual advances that do not involve physical contact between an individual and a target. This type of sexual abuse can occur in many different venues (e.g., home, school, workplace, in public, or through technology).

**Unwanted Sexual Contact** - Intentional touching or molesting, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, buttocks, or any other body part without consent. This includes making an individual touch or molest another person (including the target).

**Other** - Any sexual abuse of an unknown type at the time of the report or sexual abuse that does not conform to other secondary category options.

**Neglect** – The failure to obtain or provide the needed services and supports defined as necessary or otherwise required by law, regulation, policy, or plan (ISP, Behavior Support Plan, safety plan, etc.). This includes acts that are intentional or unintentional regardless of the obvious occurrence of harm.

**Failure to Provide Medication Management** – An event that may cause harm or lead to inappropriate medication use while the medication is in the control of the person(s) charged with administration. Incidents of this nature include when harm occurs to the individual, the medication error occurs over more than one consecutive administration or an individual receives medication intended for another individual.

**Failure to Provide Needed Care** – The failure to obtain or provide the needed services and supports.

**Failure to Provide Needed Supervision** – The failure to provide attention and supervision, including leaving individuals unattended. This is based upon the supervision care needs in the ISP or recommendations or requirements from a court of law or as a condition of probation or parole.

**Failure to Provide Protection from Hazards** – The failure to protect an individual from health and safety hazards as part of routine care, service provision or as outlined in the ISP.

**Moving Violation** – Any Independent Contractor receiving a moving violation citation during the provision of services to an individual regardless of if operating an entity's vehicle or personal vehicle.



**Passive Neglect** – The inability to provide supports due to environmental factors which are beyond the control of an unpaid caregiver because of lack of experience, information, resources, or ability. Passive neglect is reportable if there are no current risk mitigation strategies in the ISP that specifically address the area of passive neglect. Passive neglect is reported by an individual’s SCO.

**Self-Neglect** – An action or lack of action by an individual that results in the individual denying himself or herself proper care, supports and services. Self-neglect is reportable if there are no current risk mitigation strategies in the ISP that specifically address the area of self-neglect. Self-neglect is reported by an individual’s SCO.

**Exploitation** – An act or course of conduct by a person against an individual or an individual’s resources without informed consent or with consent obtained through misrepresentation, coercion, or threats of force, which results in monetary, personal, or other benefit, gain, or profit for the target, or monetary or personal loss to the individual. Exploitation should be reported regardless of the actual or perceived value of the loss.

There are 7 secondary categories of Exploitation. These include:

**Failure to Obtain Informed Consent** – An intentional act or course of conduct by a person which results in the misuse of an individual’s consent or failure to obtain consent.

**Material Resources** – The illegal or improper act or process of a person using the material resources or possessions of an individual for his or her own personal benefit or gain.

**Medical Responsibilities/Resources** – An act or course of conduct of a person that results in an individual paying for medical care or items that are normally covered by insurance or other means.

**Missing/Theft of Medications**– Missing medications without explanation or theft of medications.

**Misuse/Theft of Funds** – The illegal or improper act or process of a person using the funds of an individual for his or her own personal benefit or gain. This includes misuse or mismanagement



by a representative payee or other responsible party, theft of money, Supplemental Nutrition Assistance Program (SNAP) benefits, or soliciting monetary gifts from an individual.

**Room and Board** – Requiring an individual to pay for items that are covered as part of room and board charges, charging more than allowable rates for room and board, or charging for a service or support that is included in a rate for which a provider is or will be reimbursed. This includes any situation in which the individual is required to pay for the same item/service twice.

**Unpaid Labor** – The illegal or improper act or process of a person who is using an individual to perform unpaid labor that would otherwise be compensated in a manner consistent with labor laws.

**Additional incidents required to be reported to Jennifer Shaffer are:**

**Behavioral Health Crisis Event-** An event or situation that exceeds the individual’s current resources and coping mechanisms that causes the individual to experience extreme disorganization of thought, hopelessness, sadness, confusion, panic, or other emotional distress. The event includes action(s) by an individual that pose a danger to themselves or others and are unable to be mitigated without the assistance of law enforcement, mental health, or medical services.

**Community-Based Crisis Response** – An event in which law enforcement or emergency services respond to and resolve without transport to another location for intake, assessment, or treatment.

**Facility-Based Crisis Response** – An event in which law enforcement or emergency services respond to and an individual is transported to a psychiatric facility, including crisis facility, or the psychiatric department of an acute care hospital for evaluation or treatment that does not result in an admission.

**Immediate Arrest and Incarceration Crisis Response** - An event in which law enforcement responds to a behavioral health crisis event and arrests, charges, and incarcerates an individual without first obtaining a mental health evaluation/admission at a facility designated to provide such services.

**Psychiatric Hospitalization (involuntary)** – An involuntary inpatient admission to a psychiatric facility, including crisis facility, or the psychiatric department of an acute care hospital for evaluation or treatment.



**Psychiatric Hospitalization (voluntary)** – A voluntary inpatient admission to a psychiatric facility, including crisis facility, or the psychiatric department of an acute care hospital for evaluation and treatment.

**Death** - All deaths are reportable. Deaths attributed to or suspected to have been the result of abuse or neglect require additional reporting in the appropriate corresponding category. In addition, any critical incidents that are discovered during an investigation into a death require additional reporting in the appropriate corresponding category.

**Fire** – A situation that requires fire personnel or other safety personnel to extinguish a fire, clear smoke from the premises, etc.

**Law Enforcement Activity** - Law enforcement activity that occurs during the provision of service or for which an individual is the subject of a law enforcement investigation that may lead to criminal charges against the individual. This includes law enforcement responding to a possible crime when an individual is in the community or in a vehicle.

**Individual Charged with a Crime/Under Police Investigation** – When an individual is formally charged with a crime by the police or when an individual is informed, he or she is suspected of committing a crime, and charges may be forthcoming. All charges or suspected charges related to a Behavioral Health Crisis Event should be reported as such and not as a law enforcement activity.

**Licensed Service Location Crime** – A crime such as vandalism, break-ins, threats, or actual occurrences of acts that may result in harm, etc. that occur at the provider’s service location.

**Missing Individual** - An individual is considered missing when they are out of contact for more than 24 hours without prior arrangement or the individual is in immediate jeopardy when missing for any period. Based on an individual’s history, safety skills, and familiarity with the area, an individual may be considered in jeopardy before 24 hours elapse. In addition, when police are contacted about a missing individual or the police independently find and return an individual, this is a reportable incident regardless of the amount of time an individual has been missing.

**In Jeopardy** - The unexpected or risky absence of any duration for an individual whose absence constitutes an immediate danger to the individual or others.



**Rights Violation** – An unauthorized act which improperly restricts or denies the human or civil rights of an individual, including those rights which are specifically mandated under applicable law, regulation, policy, or plan. This includes acts that are intentional or unintentional regardless of the obvious occurrence of harm.

**Civil/Legal** – Any violation of civil or legal rights afforded by law. This includes the right to vote, speak freely, practice religious choice, access law enforcement and legal services, as well as participate in local, state or national government activities.

**Communication** – The failure to support an individual to communicate at all times. This includes a failure to obtain needed communication evaluations, assistive devices, or services; provide communication support; or maintain communication devices in working order.

**Health** – The failure to support choice and opportunity related to health care. This includes failure to inform and educate an individual about physical or behavioral health evaluations and assessments, changes in health status, diagnosis information, test results, medications, treatment options, etc. This also includes the denial of the right of an individual to make informed health care decisions.

**Privacy** – Any violation of an individual's safely exercised choice to be free from being observed or disturbed by others. This includes an individual's choice to maintain the privacy of his or her physical person, living area, possessions, electronic social media (emails, posts on the internet, accounts, content, or any similar items), communication with others (whether in face-to-face meetings, phone, email, physical mail, or any other correspondence), use of image or likeness without the expressed permission of the individual (including videos or photos taken of the individual for promotional, marketing or any other purpose), or any similar area where a reasonable expectation of privacy exists.

**Services** – Any violation of an individual's right to control services received. This includes when an individual refuses to participate in, voices a concern about, or wants to make a change to a service, and the ISP team does not address these choices. Individuals have the right to participate in the development and implementation of their ISPs and can choose where, when, and how to receive needed services. This also includes the right to control specific schedules and activities related to services. HCBS Provider will reach out to the supports coordinator to report requested changes.



**Unauthorized Restrictive Procedure** – Any restrictive procedure (other than a physical, chemical, or mechanical restraint) that does not follow ODP’s guidelines related to restrictive procedures or is prohibited by ODP. Restrictive procedures limit an individual’s movement, activity, or function; interfere with the individual’s ability to acquire positive reinforcement; result in the loss of objects or activities that an individual values; or require an individual to engage in a behavior in which, given the freedom of choice, the individual would not engage.

**Serious Illness** – A physical illness, disease, or period of sickness that requires hospitalization. This includes an elective surgery that requires hospitalization.

**Chronic/Recurring** – An illness, condition or disease that is persistent or otherwise long-lasting in its effects for which an individual has had previous treatment or diagnosis.

**New** – An acute illness, condition, or disease for which an individual has not previously received treatment. This includes acute illnesses, conditions or diseases that may become chronic in the future.

**Serious Injury** – Any injury that requires treatment beyond first aid. This includes injuries that receive an assessment or treatment at an emergency room, urgent care center, primary care physician office, etc., or that require hospitalization. Assessment by emergency medical services that did not require a visit to one of the locations listed above for treatment is not reportable. Serious injuries that are treated by a medical professional (i.e. doctor, nurse, etc. that is used by the organization) on-site are reportable.

**Choking** – When food or other items become lodged in the back of the throat and the cause is not attributed to neglect. Choking incidents are only reportable when they require interventions, such as back blows, abdominal thrusts, or the Heimlich maneuver.

**Injury Accidental** – Injury (other than self-inflicted) with a known cause at the time of the report.

**Injury Self-Inflicted** – Injury with a known cause at the time of the report that can be attributed to an intentional action of an individual to cause harm upon himself or herself.

**Injury Unexplained** – An injury with no known cause at the time of the report.

**Medical Equipment Failure/Malfunction** – Any medical equipment failure or malfunction that requires intervention by a medical professional. This does not include routine maintenance or care of medical equipment.



**Pressure Injury (decubiti, pressure ulcer, pressure sore, bedsore)** – Injuries to skin and underlying tissue resulting from prolonged pressure on the skin, regardless of stage and including an injury that is unstageable. This includes initial diagnoses, newly affected areas of the body, as well as a diagnosis that becomes worse over time.

**Site Closure** – The emergency closure of a licensed or provider operated service location for one (1) or more days. This is reported as a site incident report and does not apply to individuals who reside in homes owned, rented, or leased solely by the individual or family member.

**Suicide Attempt** – The intentional and voluntary attempt to take one’s own life. A suicide attempt is limited to the actual occurrence of an act and does not include suicidal threats or ideation. If medical treatment was sought after a suicide attempt, it should be reported under suicide attempt as a primary category in all cases, and not as serious injury or illness.

**Injury/Illness that Requires Medical Intervention** – An individual sustained an injury or became ill due to a suicide attempt and required medical treatment beyond basic first aid.

**No Injury/Illness that Requires Medical Intervention** – An individual did not sustain an injury or become ill due to a suicide attempt and did not require medical treatment beyond first aid.

**The following categories of reportable incidents are required to be reported within 72 hours after the occurrence of the incident. HCBS Provider's practice is reporting in EIM within 24 hours.**

**Medication Error:** Any practice with the “Rights of Medication Administration” as described in the ODP Medication Administration Training Course. A medication error occurring during a time when an unpaid caregiver is responsible for the administration of medication is not reportable. An individual’s refusal to take medication is not reportable as a medication error. This includes wrong medication, wrong dose, wrong time, wrong route, wrong form, wrong position, wrong technique/method, omission, and wrong person.

All medication errors will be tracked and reviewed at the agency’s monthly incident review meeting. This will include reports that have been initiated but not submitted. The review will



include an evaluation of the circumstances surrounding the medication error and how to avoid future incidents from occurring.

**Physical Restraint** – A physical hands-on method that restricts, immobilizes, or reduces an individual’s ability to move his or her arms, legs, head, or other body parts freely. A physical restraint may only be used in the case of an emergency to prevent an individual from immediate physical harm to herself or himself or others. Restraints that are permitted by ODP policies and procedures, regulations or laws are to be reported as physical restraints. All other restraints shall be reported as abuse.

**Human Rights Team Approved Restrictive Intervention** – Any physical restraint that is applied in an emergency situation that is part of an approved ISP that contains a restrictive procedure.

**Provider Emergency Protocol** – Any physical restraint that is applied in an emergency situation that is part of a provider emergency restraint protocol. This restraint is not part of an individual approved ISP that contains a restrictive procedure.

The following incidents will be reported when directed by ODP. OPD will provide specific guidance and direction on what to report, as well as the timelines to report, related to the following emergencies:

**Declared Emergency** - An event, such as an occurrence of a natural catastrophe, technological accident, or human-caused event that has resulted in, or could potentially cause, severe property damage, deaths, and/or multiple injuries such as, but not limited to, public health emergencies, emergency declarations, major declarations, etc. A Declared Emergency is declared by Federal, State, County, or Municipal officials.

**Public Health Emergency** - An event such as a disease or natural disaster that causes, or has the potential to cause, harm to a significant number of individuals and is declared as a Public Health Emergency by Federal or State officials. **Public Health Emergencies are to be reported within time frames that are specific to the nature of the event and as directed by ODP.**



**Outbreaks** - The occurrence of disease cases in excess of normal expectancy. The number of cases varies according to the disease-causing agent, and the size and type of previous and existing exposure to the agent.

**Epidemic** - A disease that affects a large number of people within a community, population, or region.

**Pandemic** - A disease that affects a large number of people that is spread over multiple countries or continents.

**Natural Disasters** - An event such as a flood, earthquake, storms, hurricanes, tornados, blizzards, etc.

**Bio-Terrorist Attacks** - The intentional release or dissemination of biological agents. These agents are bacteria, viruses, insects, fungi, or toxins, and may be in a naturally occurring or a human-modified form.

## **PROCEDURES**

It is HCBS Provider's practice to provide training to all staff hired on the prevention, detection and reporting of abuse, suspected abuse, and incident management upon their initial hire and annually thereafter. Emphasize is placed on each person's responsibility to report all incident categories to a point person, Jennifer Shaffer. HCBS Provider conducts monthly and quarterly incident reviews to determine incident trends across the organization and ensure reporting, investigation, and implementation of corrective actions.

### **Monthly Individual Incident Monitoring**

All incidents will be monitored, including all forms of restraint and all medication errors. All incidents, including all forms of restraint and all medication errors, will be tracked and reviewed at the agency's monthly incident review meeting. This monthly review will include incidents that have been initiated, ongoing and closed. On a monthly basis, IM Representative will meet with Jennifer Shaffer, Point Person, to review ongoing and closed incidents for that current month. Information will be documented using the Monthly IM Monitoring Document which includes the evaluation and documentation criteria listed below. The Monthly IM Monitoring Document will be saved electronically under the current month and year, IM Monthly Monitoring. Data analyses are made available to oversight entities when requested. A potential for unreported critical incidents exists, despite staff training. HCBS will ensure any unreported



critical incidents recognized through routine review of service notes and staff/contractor supervision are reported, investigated and corrective actions are implemented.

The evaluation of the incident will include the following:

1. Evaluation of the effectiveness of incident corrective actions for all categories
2. Actions taken by the Provider to address ineffective corrective actions
3. Evaluation of the circumstances and frequency of restraints
4. Evaluation of the circumstances and frequency of medication errors
5. Identification and implementation of preventative measures to reduce
  - A. The number of incidents
  - B. The severity of the risks associated with the incident
  - C. The likelihood of an incident recurring

The documentation will include the following:

1. Date of review
2. Agency role/staff responsible for conducting monthly analysis
3. The need to revise the ISP with the ISP team to include new and/or revised information, risk mitigation plans, or a change in services or supports.
4. The need to consult with a County ID Program/AE for assistance related to monthly data monitoring, if necessary
5. The actions and outcomes of any activities that occurred related to monthly data monitoring

#### Quarterly Incident Trend Analysis

Every quarter the IM Representative will meet with Point Person, to review and analyze incidents, and conduct and document a trend analysis of all incident categories over the 3-month period. Information will be documented using IM Quarterly Trend Analysis Document which includes the analysis data points and documentation criteria listed below. The IM Quarterly Trend Analysis Document form will be saved electronically under the current year, IM



Quarterly Trend Analysis. Data analyses are made available to oversight entities when requested. Based on the results of the trend analysis, HCBS leadership will develop, implement and document both individual specific and agency-wide risk mitigation activities.

Documentation quarterly trend analysis to include the following:

1. Date of review
2. Agency role/staff responsible for conducting quarterly trend analysis
3. An analysis of compliance with regulatory timeframes for reporting, investigation, and finalization of incidents
4. Evaluation of the effectiveness of corrective actions for all incident categories
5. Evaluation of the effectiveness of education to individuals, staff, and others based on the circumstances of an incident
6. A review and trend analysis of comments from the County ID Program/AE and ODP initial management review and disapproval reasons from the final management review
7. Any measures that have been implemented or will be implemented to reduce:
  - a. The number of incidents
  - b. The severity of risks associated with the incident
  - c. The likelihood of an incident recurring
8. Documentation of the actions and outcomes of any activities that occurred related to the trend analysis

Monitoring of delegated IM functions

HCBS Provider will monitor delegated IM function of Certified Investigations monthly. IM Representative will reach out to the contracted certified investigators monthly (can be up to quarterly) to ensure compliance with ODP IM regulations concerning both the certified investigators and investigation. Documentation on any ongoing or closed incidents will include the following

1. Date of Monitoring, Staff Position/title responsible for monitoring
2. Current Certified Investigator Certificate



3. Discussion around any issues or questions pertaining to the incident
4. Discussion around resolution to issues or questions pertaining to the incident
5. The CIPR tool will be used as a tracker to ensure that the investigation followed ODP IM regulations
6. Documentation will be kept electronically stored under the current year for Delegated IM function of Certified Investigations.
7. M Representative will share monthly monitoring with QM Team at quarterly reviews.

HCBS Provider will assign a state-certified investigator to investigate the following Incident Management Categories:

Abuse -All categories

Deaths-when participant receives services/supports from UCP

Exploitation- All categories

Neglect-All categories

Rights Violation – All categories

Serious injury

Injury accidental

Injury unexplained

Choking

Pressure injury

Sexual abuse -All categories

Suicide attempt -All categories

Any person who witnesses/is notified of an incident of abuse, suspected abuse, or neglect must notify an agency Jennifer Shaffer immediately after the safety of the individuals involved has been assured. This is the case regardless of whether agency staff is directly involved in the act of abuse/neglect. Jennifer Shaffer then assumes responsibility to ensure that a certified investigator is assigned and that reports are entered into EIM (Enterprise Incident Management) the state reporting system that tracks incidents within HCSIS (Home Community



Services Information System) immediately. The final report must be completed, reviewed by HCBS Provider Administrative Team, and submitted in EIM within 30 days, unless an extension has been requested and granted. Completion of all final reports will include the development of an appropriate preventative corrective action plan and any additional corrective action plans to be submitted. All developed corrective action plans will be fully implemented and tracked by the Quality Manager. If the need for an extension is contemplated, Jennifer Shaffer must contact the Chief Operating Officer before the 30-day expiration to discuss the reasons for an extension and to receive advance approval for such a request. Please remember that it is HCBS Provider's policy to thoroughly investigate and close every EIM incident well within the 30-day requirement. Jennifer Shaffer and the Incident Reporter will work together to complete the final report promptly. Jennifer Shaffer is responsible for ensuring that every reportable incident is investigated and concluded in the most expeditious manner possible.

In incidents of abuse or suspected abuse, the individual is to be informed of his or her rights and options related to contacting law enforcement. The individual, family members or persons designated by the individual are provided with timely response to questions or concerns related to the incident.

When an incident meets the definition of Abuse under the Adult Protective Services Act, and a call to report the abuse is mandated, as we are all mandated reporters, the staff will be immediately suspended. Any staff accused of abuse will be separated from the victim and placed on administrative leave immediately pending the outcome of the investigation. There will be separation of target from the victim when there is eminent risk to the health and safety of the client. Separation of the target from the victim will occur when directed by an outside governing agency.

If abuse/neglect is confirmed, the accused staff will receive disciplinary action up to and including termination. If the abuse/neglect is not confirmed or is inconclusive, the employee will be brought back from administrative leave.



Responsibilities When Witnessing, Being Informed of Allegations or Suspecting Abuse/Neglect:

**Initial Reporter:** An initial reporter is any person who witnesses or experiences the incident, is informed of an allegation of an incident, or is the first to discover or recognize the signs of an incident. Initial reporters may be individuals receiving services, family members, community members or service system staff. If the initial reporter is an HCBS Provider, the following steps must be taken.

Respond to the situation by taking immediate action to protect the individual's health, safety, welfare, and their rights.

Immediately notify Jennifer Shaffer or any member of the HCBS Provider Administrative Team. Document observations about the incident in a narrative report.

Comply with the applicable laws and regulations for incidents of alleged abuse, neglect, or exploitation.

**Point Person:** The point person is a person that receives information from an initial reporter and is responsible for managing the incident from beginning to end. This person is to ensure that all incident management activities are completed for each incident. The point person is the point of direct contact for an incident and must be available to respond to questions related to an incident.

The point person must ensure the following items.

All actions needed to protect the health, safety rights and welfare of the individual are taken following the initial notice of the incident.

Ensure referrals to victim's assistance services are offered and support access services are provided when an individual expresses an interest in these services.

If the incident involves abuse, suspected abuse, or alleged abuse, the following are notified as appropriate:

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Adult Protective Services

Child Protective Services

Older Adult Protective Services

The individual and persons designated by the individual unless the person is designated as the target.

The Department of Aging and Department of Human Services

The designated Managing Entity (AE)

The county government office responsible for the intellectual disability program, if applicable.

The individual is informed of his or her rights and options related to contacting law enforcement.

The individual and his/her family members are provided with timely responses to questions and concerns regarding the incident.

In all cases of abuse ensure the target is separated from the victim.

Enter the initial incident report in EIM (Enterprise Incident Management) within 24 hours of discovery.

Enter the final section of the report within 30 calendar days of discovery of the incident. If an Extension is needed, the Point Person shall submit to the Department a valid reason for the Extension and follow up on all comments received from initial or final management reviews.

If the individual is deceased, information is sent to the County ID Program/AE and the appropriate regional office or uploaded to be part of the electronic incident report. This includes the Lifetime Medical History, copy of the Death Certificate, Autopsy Report, discharge summary from the final hospitalization if the individual died while in the hospital, results of the most recent physical examination as well as any recent health and medical assessments completed. The point person will also ensure a copy of the entire investigative file is provided to the appropriate authorities.

Ensure there is a timely response to complaints about a service that is related to the incident management or investigation process. This communication must be provided in the communication method preferred by the individual.

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HCBS Provider will post/update the listing of trained point persons and certified investigators on its website.

#### The Investigatory Process:

The Administrative Director assigns a Certified Investigator to investigate the abuse/ neglect allegation.

The Administrative Director contacts the President/CEO to apprise of situation and confirm appropriate authorities to notify as indicated in their responsibilities.

The police may be notified in coordination with the Administrative Director or President/CEO in the event of physical abuse, sexual abuse, psychological abuse, or neglect improper use of restraints founded to also be physical or psychological abuse is also reported to the police. The Administrative Director and the President/CEO have the right to exercise appropriate judgment and decide to not call the police if the action, while by definition is abuse, is not something the police would have responsibility to investigate.

All staff must refrain from discussing the incident with anyone except the Certified Investigator during the investigation process. Failure to do so will result in disciplinary action, up to and including termination.

Staff members are expected to participate in any investigation. Staff members who refuse to answer questions posed by the Certified Investigator or provide false information will be subject to disciplinary action, up to and including termination. Staff may have another employee present when meeting with the Certified Investigator. The other employee shall not interfere with the investigation; any staff whose behavior interferes with the investigation shall be removed from the meeting and may be subject to discipline.

All files compiled by the Certified Investigator are the property of HCBS Provider and will be submitted within 5 days of the investigation. Access to the investigation file will be limited to ensure the chain of custody is maintained. The investigatory file will be entered into a person's personnel file. The targeted staff is not allowed access to the investigatory file.

The Certified Investigator will complete the CIR (certified investigation report) and enter the report into the EIM. The administrative review team (Administrative Director/Point Person,



Training Coordinator, President/CEO, Quality Manager, and Human Resources) will discuss the findings of the investigation and issue a determination. A member of the administrative review team will complete the administrative review screens in EIM. The determination will be entered into the final section of the EIM (Enterprise Incident Management) report by the point person. The administrative review will agree on any corrective action plan to implement and decide on any disciplinary action if a target identified is an employee of the organization.

If a Certified Investigation determines that an allegation of abuse or neglect has been confirmed the accused employee may be terminated depending on the facts of the case.

The individual and the individual's guardian will be informed of the results of the investigation.

HCBS supports the release of the incident information to the individual, or persons designated by the individual, upon written request.

A summary of the incident, to include:

1. A description of the incident
2. The immediate action(s) taken to protect the health, safety and well-being of the individual
3. Incident classification
4. All notification information to include date and person or entity notified

The findings, to include:

1. Additional Information
2. The information must be redacted to exclude information about another individual and the reporter, unless the reporter is the individual who receives the information.
3. Investigation findings and determination (when applicable)
4. An incident report does not include the investigation file.

The actions taken, to include:



1. Corrective Actions planned or implemented
2. Medical Intervention Information

## Non-retaliation Policy

### **Policy Statement**

Federal and state law and HCBS Provider prohibit retaliation against any employee, by another employee or by HCBS Provider and its Administrative Team, for making a good faith complaint about or participating in an investigation about an alleged violation of non-discrimination, non-harassment, workplace violence, other unlawful behavior or conduct that violates HCBS Provider policies.

### **Purpose**

The purpose of this policy is to communicate HCBS Provider's commitment to a workplace free from retaliation, present a definition of retaliation and protected activity, and outline the reporting procedures for possible violations of this policy.

### **Procedures**

#### Intent

Independent Contractors are protected against retaliation for in good faith filing, testifying, assisting, or participating in any manner in any investigation, proceeding or hearing conducted by HCBS Provider and/or federal or state enforcement agencies. This policy also prohibits retaliation against staff "who are closely associated with or connected to" the reporting staff or the alleged incident.

Independent Contractors who have a reasonable and good faith belief that a policy or practice of HCBS Provider violates legal standards, and based on that belief oppose, implicitly or explicitly, that policy or practice, are protected against retaliation, even when HCBS Provider was acting lawfully. In addition, HCBS Provider prohibits retaliation against anyone who, in good faith, reports a perceived violation of any HCBS Provider policy, or in good faith cooperates with an investigation of such a claim.



Individuals may state their opposition to a specific practice or activity that they believe constitutes an unlawful action(s). Such opposition must be based on a reasonable and good faith belief. A person claiming retaliation does not necessarily need to be the person engaged in the opposition. Individuals may participate in an investigation, proceeding, hearing or litigation without fear of retaliation.

#### Protected Activity

Protected activity includes, but is not limited to, the following:

- Initiating an internal complaint or report of discrimination or harassment;
- Filing a claim of discrimination;
- Requesting an accommodation for a disability;
- Reporting incidents in regard to the Older Adults Protective Services Act;
- Filing a report of fraud, waste, or abuse identified by the Federal False Claims Act;
- Participating in an investigation of any of the foregoing incidents, claims or complaints

#### Retaliation Defined

Adverse actions that may constitute retaliation may be general or specific actions. Examples of general adverse actions that may be considered retaliatory are denial of promotion, refusal to hire, denial of job benefits, demotion, suspension, or termination.

Other actions may include threats, reprimands, unwarranted negative evaluations, pay reductions, change in job assignments, harassment, or hostile behavior or attitudes toward the complainant. Other adverse actions that may or may not be intentionally motivated, but which result in negative treatment of an individual, can also be considered retaliatory.

Post-employment actions that may be considered retaliatory are actions that are designed to interfere with an individual's prospects for employment, such as baseless negative job references and informing prospective employers of the individual's protected activity, also constitute retaliation. Negative references do not constitute retaliation unless the reference was based on a retaliatory motive.



### Reporting Violations

Any Independent Contractor who in good faith believes that he/she or any other staff is being subjected to retaliation in violation of this policy, or any other HCBS Provider policy or law is urged to report the situation to the Human Resources Department as soon as possible. You can contact the Human Resources Department at [sharon@hcbprovider.com](mailto:sharon@hcbprovider.com)

Reports of retaliatory conduct will be promptly and objectively investigated in accordance with HCBS Provider's investigatory procedures. If a retaliation complaint is substantiated, appropriate disciplinary action, up to and including termination, will be taken against those who have engaged in such behaviors, as HCBS Provider deems appropriate in its sole discretion. Staff are legally prohibited from engaging in retaliation against other staff and will be subject to discipline, up to and including termination, for such conduct.



## **CRISIS MENTAL HEALTH RESOURCES BASED OFF COUNTIES**

**CHESTER COUNTY:** Telephone Crisis Counseling, Mobile Outreach Services, Available 24/7

- a. Valley Creek Crisis Center: 610-280-3270 or 610-918-2100 Toll Free 1-877-918-2100
- b. Chester County Consumer-run Warm Line 866-846-2722  
Offers peer support or information about mental health services. Staffed by trained, paid mental health specialists. Toll free. Monday-Friday from 2-8pm, Sat-Sun from noon to 6 pm.

**MONTGOMERY COUNTY:** 24 hour/7 Day a week Hotline 610-279-6100

**DELAWARE COUNTY:** mobile crisis team 1-855-889-7827

**BERKS COUNTY:** immediate crisis intervention services 610-236-0530

**PHILADELPHIA COUNTY:** 24-hour Mental Health Delegate Line 215-685-6440

Our Behavioral Specialist Consultants (BSCs) do not provide emergency services. BSCs do make every effort to respond to crisis situations as soon as possible. Refer to the client's ISP and contact the Supports Coordinator. Utilize county crisis mental health resources.



**Client Acknowledgement**

I have been informed of the definitions of abuse/neglect/exploitation and HCBS Provider’s Incident Management and Abuse, Neglect, and Exploitations Policies and Procedures.

I have received the full packet defining and explaining Participant Abuse/Neglect, Incident Management, Restrictive Procedures, Reporting Procedures, and HCBS Provider's “Whistleblower” policy.

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Signature of Client or Parent/Guardian Signing of behalf of client

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Name of Client, if signing on behalf of client please include relationship to client

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Date