

INTRODUCTION TO CRITICAL INCIDENT REPORT REQUIREMENTS

For Case Managers and Service Providers

April 2018



COLORADO

Department of Health Care
Policy & Financing

Our Mission

Improving health care access and outcomes for the **people** we serve while demonstrating sound stewardship of financial **resources**



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Purpose

- Provide information on statutory, waiver, and regulatory requirements for critical incident reporting
- Provide examples of types of critical incidents
- Ensure case managers and providers of all waivers are familiar with the critical incident reporting process
- Ensure the health, safety, and welfare of waiver participants



Agenda / Topics

- Definitions and State Statute for IDD and non-IDD waivers
- Reporting Requirements
- Critical Incident Reporting
- Incident Management

Right to Humane Treatment

All service agencies shall prohibit mistreatment, exploitation, neglect, or abuse in any form of any person receiving services.

C.R.S. 25.5-10-221(2)



DEFINITIONS



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Caretaker

“Caretaker” means a person who:

- Is responsible for the care of a person with an intellectual and developmental disability as a result of a family or legal relationship;
- Has assumed responsibility for the care of a person with an intellectual and developmental disability; or
- Is paid to provide care, services, or oversight of services to a person with an intellectual and developmental disability.

C.R.S. 25.5-10-202 (1.6) (a)-(c)



Mistreatment

"Mistreated" or "Mistreatment" means:

- Abuse;
- Caretaker neglect;
- Exploitation;
- An act or omission that threatens the health, safety, or welfare of a person with an intellectual and developmental disability; or

C.R.S. 25.5-10-202 (29.5) (a)-(d)



Mistreatment (cont'd)

"Mistreated" or "Mistreatment" means (*cont'd*):

- An act or omission that exposes a person with an intellectual and developmental disability to a situation or condition that poses an imminent risk of bodily injury to the person with an intellectual and developmental disability.

C.R.S. 25.5-10-202 (29.5) (e)



Undue Influence

“Undue influence” means the use of influence to take advantage of a person with an intellectual and developmental disability's vulnerable state of mind, neediness, pain, or emotional distress.

C.R.S. 25.5-10-202(37.5)



Abuse

"Abuse" means any of the following acts or omissions committed against a person with an intellectual and developmental disability:

- The nonaccidental infliction of physical pain or injury, as demonstrated by, but not limited to, substantial or multiple skin bruising, bleeding, malnutrition, dehydration, burns, bone fractures, poisoning, subdural hematoma, soft tissue swelling, or suffocation;

C.R.S. 25.5-10-202 (1) (a)



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Abuse (cont'd)

- Confinement or restraint that is unreasonable under generally accepted caretaking standards; or
- Subjection to sexual conduct or contact classified as a crime under the "Colorado Criminal Code", Title 18, C.R.S.

C.R.S. 25.5-10-202 (1) (b)-(c)



Abuse (cont'd)

"Sexual contact" means the knowing touching of the victim's intimate parts by the actor, or of the actor's intimate parts by the victim, or the knowing touching of the clothing covering the immediate area of the victim's or actor's intimate parts if that sexual contact is for the purposes of sexual arousal, gratification, or abuse.

"Sexual intrusion" means any intrusion, however slight, by any object or any part of a person's body, except the mouth, tongue, or penis, into the genital or anal opening of another person's body if that sexual intrusion can reasonably be construed as being for the purposes of sexual arousal, gratification, or abuse.

"Sexual penetration" means sexual intercourse, cunnilingus, fellatio, analingus, or anal intercourse. Emission need not be proved as an element of any sexual penetration. Any penetration, however slight, is sufficient to complete the crime.

C.R.S. 18-3-401 (4) (5) (6)



Caretaker Neglect

"Caretaker neglect" means neglect that occurs when adequate food, clothing, shelter, psychological care, physical care, medical care, habilitation, supervision, or other treatment necessary for the health and safety of a person with an intellectual and developmental disability is not secured for a person with an intellectual and developmental disability or is not provided by a caretaker in a timely manner and with the degree of care that a reasonable person in the same situation would exercise, or a caretaker knowingly uses harassment, undue influence, or intimidation to create a hostile or fearful environment for an at-risk adult with IDD.

C.R.S. 25.5-10-202 (1.8) (a)



Caretaker Neglect (cont'd)

Notwithstanding the provisions of paragraph (a) of this subsection (1.8), the withholding, withdrawing, or refusing of any medication, any medical procedure or device, or any treatment, including but not limited to resuscitation, cardiac pacing, mechanical ventilation, dialysis, artificial nutrition and hydration, any medication or medical procedure or device, in accordance with any valid medical directive or order, or as described in a palliative plan of care, shall not be deemed caretaker neglect.

C.R.S. 25.5-10-202 (1.8) (b)



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Caretaker Neglect (cont'd)

As used in this subsection (1.8), "medical directive or order" includes a medical durable power of attorney, a declaration as to medical treatment executed pursuant to section 15-18-104, C.R.S., a medical order for scope of treatment form executed pursuant to article 18.7 of Title 15, C.R.S., and a CPR directive executed pursuant to article 18.6 of Title 15, C.R.S.

C.R.S. 25.5-10-202 (1.8) (c)



Exploitation

“Exploitation” means an act or omission committed by a person who:

- Uses deception, harassment, intimidation, or undue influence to permanently or temporarily deprive a person with an intellectual and developmental disability of the use, benefit, or possession of any thing of value;
- Employs the services of a third party for the profit or advantage of the person or another person to the detriment of the person with an intellectual and developmental disability;

C.R.S. 25.5-10-202 (15.5) (a)-(b)



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Exploitation (cont'd)

- Forces, compels, coerces, or entices a person with an intellectual and developmental disability to perform services for the profit or advantage of the person or another person against the will of the person with an intellectual and developmental disability; or
- Misuses the property of a person with an intellectual and developmental disability in a manner that adversely affects the person with an intellectual and developmental disability's ability to receive health care or health care benefits or to pay bills for basic needs or obligations.

C.R.S. 25.5-10-202 (15.5) (c)-(d)



REPORTING REQUIREMENTS



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Mandatory Reporting to Law Enforcement

On and after July 1, 2016, a person specified in paragraph (b) of this subsection (1) who observes the mistreatment of an at-risk elder or an at-risk adult with IDD, or who has reasonable cause to believe that an at-risk elder or an at-risk adult with IDD has been mistreated or is at imminent risk of mistreatment, shall report such fact to a law enforcement agency not more than twenty-four hours after making the observation or discovery.

C.R.S. 18-6.5-108 (1) (a)



Mandatory Reporting to Law Enforcement (cont'd)

The following persons, whether paid or unpaid, shall report as required by subsection (1)(a) of this section:

- Staff of community-centered boards
- Staff, consultants, or independent contractors of service agencies as defined in section 25.5-10-202 (34), C.R.S.
- Staff or consultants for a licensed or unlicensed, certified or uncertified, care facility, agency, home, or governing board, including but not limited to long-term care facilities, home care agencies, or home health providers
- Staff of, or consultants for, a home care placement agency, as defined in section 25-27.5-102 (5), C.R.S

C.R.S. 18-6.5-108 (1)(b) (IX), (X), (XI) & (XII)



Mandatory Reporting to Law Enforcement (cont'd)

The following persons, whether paid or unpaid, shall report as required by subsection (1)(a) of this section (cont'd):

- Persons performing case management or assistant services for at-risk elders or at-risk adults with IDD
- Staff of county departments of human or social services
- Staff, and staff of contracted providers, of area agencies on aging, except the long-term care ombudsmen
- Employees, contractors, and volunteers operating specialized transportation services for at-risk elders and at-risk adults with IDD

C.R.S. 18-6.5-108 (1) (b) (XIII), (XIV), (XVII), & (XVIII)



Mandatory Reporting to Law Enforcement (cont'd)

Willful violation of the mandatory reporting requirements is considered a class 3 misdemeanor.

C.R.S. 18-6.5-108 (1)(c)

Penalties for a class 3 misdemeanor are found in the Colorado Criminal Code, C.R.S. 18-1.3-501.



Mandatory Reporting to Adult Protective Services (APS)

A person specified in paragraph (b) of this subsection (1) who observes the mistreatment or self-neglect of an at-risk adult or who has reasonable cause to believe that an at-risk adult has been mistreated OR is self-neglecting and is at imminent risk of mistreatment is urged to report such fact to a county department not more than twenty-four hours after making the observation or discovery.

C.R.S. 26-3.1-102 (1) (a)



SEP Mandatory Reporting Requirements

In the event, at any time throughout the case management process, the case manager suspects an individual to be a victim of abuse, neglect or exploitation, the case manager shall immediately refer the individual to the protective services section of the county department of social services of the individual's county of residence and/or the local law enforcement agency.

10 CCR 2505-10 8.393.2.A.1



Single Entry Point (SEP) Contract Requirements

Per contract, section 2.7.4:

- The Contractor shall document critical incidents in the Department-prescribed system.
- The Contractor shall take appropriate action to address substantiated critical incidents.
- The Contractor shall respond to critical incidents received and document actions taken to resolve and/or mitigate critical incidents.



CRITICAL INCIDENT REPORTING



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Service Providers: I/DD

The Department requires all Service Provider Agencies to report critical incidents to the CMA immediately upon detection via telephone, e-mail or facsimile but no more than 24 hours after the incident occurrence.

Subsequent to initial reporting, the agency must submit a written incident report to the CMA within 24 hours of discovery of the incident.



Service Providers: Non-I/DD

Provider agencies shall have written policies and procedures regarding the handling and reporting of critical incidents, including accidents, suspicion of abuse, neglect or exploitation, and criminal activity. Provider agencies shall maintain a log of all complaints and critical incidents, which shall include documentation of the resolution of the problem.

10 CCR 2505-10 8.487



SEP Definition

Critical Incident means an actual or alleged event that creates the risk of serious harm to the health or welfare of an individual receiving services; and it may endanger or negatively impact the mental and/or physical well-being of an individual. Critical Incidents include, but are not limited to: Injury/illness; abuse/neglect/exploitation; damage/theft of property; medication mismanagement; lost or missing person; criminal activity; unsafe housing/displacement; or death.

10 CCR 2505-10 8.390.1 E



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SEP Case Management

Case Manager shall report critical incident within 24 hours of notification within the State Approved IMS. This report must include:

- a. Individual's name;
- b. Individual's identification number;
- c. HCBS Program;
- d. Incident type;
- e. Date and time of incident;
- f. Location of incident, including name of facility, if applicable;
- g. Individuals involved; and
- h. Description of Resolution.

10 CCR 2505-10 8.393.2.G.10



I/DD Requirement

The Department requires all CMAs to report critical incidents to the Department, as soon as possible after discovering the incident, but no more than 24 hours (business day)

CMAs report critical incidents to the Department through the Department's web-based critical incident reporting system, the Benefits Utilization System (BUS)



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CCB Case Management

Reports of incidents shall include, but not be limited to:

1. Name of the person reporting;
2. Name of the person receiving services who was involved in the incident;
3. Name of persons involved or witnessing the incident;
4. Type of incident;
5. Description of the incident;
6. Date and place of occurrence;

10 CCR 2505-10 8.608.6 B



CCB Case Management (cont'd)

Reports of incidents shall include, but not be limited to (cont'd):

7. Duration of the incident;
8. Description of the action taken;
9. Whether the incident was observed directly or reported to the agency;
10. Names of persons notified;
11. Follow-up action taken or where to find documentation of further follow-up; and,
12. Name of the person responsible for follow-up.

10 CCR 2505-10 8.608.6 B



CCB Case Management (cont'd)

Community centered boards, program approved service agencies and regional centers shall review and analyze information from incident reports to identify trends and problematic practices which may be occurring in specific services and shall take appropriate corrective action to address problematic practices identified.

10 CCR 2505-10 8.608.6 F



Critical Incidents

- The Home and Community Based Services Medicaid Waivers require certain types of incidents be reported to the Department of Health Care Policy and Financing (the Department).
- These incidents are identified as Critical Incidents.
- An actual or alleged event that creates the risk of serious harm to the mental and/or physical health or welfare of a Member receiving waiver services.



Critical Incident Types

- Injury/Illness to a Member:
 - Resulting in treatment beyond first aid which includes lacerations requiring stitches or staples, fractures, dislocations, loss of limb serious burn, skin wounds, etc.

- Missing Person:
 - Person is not immediately found, their safety is at serious risk or there a risk to public safety.

- Damage to Member's Property/Theft:
 - Deliberate damage, destruction, theft or use of a member's belongings or money.

Critical Incident Types (cont'd)

- **Medication Error/Management Issues:**
 - Issues with medication dosage, scheduling, timing, set-up, compliance and administration which results in harm or an adverse effect which necessitates medical care.

- **Death:**
 - Expected or unexpected.

Critical Incident Types (cont'd)

- Criminal Activity :
 - Any illegal activity that is allegedly committed by the waiver participant in which there is law enforcement involvement;
 - Violation of probation or parole that potentially will result in the revocation of probation/parole.
 - Any criminal offense that is committed by a waiver participant that results in immediate incarceration.

*Critical incident types updated September 2017 to align with the Office of Community Living
Critical Incident Technical Guide September 2017 for the BUS.*



Critical Incident Types (cont'd)

- **Unsafe Housing/Displacement:**
 - Individual is residing in a unsafe living conditions due to a natural event (such a fire or flood) or environmental hazard (such as infestation), and is at risk of eviction or homelessness



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Critical Incident Types (cont'd)

- Other High Risk Issues
(that may not be addressed through other categories):
 - Substance abuse
 - Critical service interruption
 - Suicide ideation
 - Self-injurious behaviors

Additional Resources

HCBS Waiver Critical Incident Reporting page:

<https://www.colorado.gov/hcpf/hcbs-waiver-critical-incident-reporting>

Adult Protective Services, Mandatory Reporting E-Training Module:

http://costateaps.articulate-online.com/p/8024433855/story_html5.html

Child Welfare, Mandatory Reporter Training:

<https://www.coloradocwts.com/mandated-reporter-training>



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INCIDENT MANAGEMENT



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Incident Management

How is your agency defining, collecting, and analyzing incidents to prevent harm?

- Not only incidents involving Mistreatment or other critical incident types.
- Seemingly minor incidents may indicate a pattern that if not addressed may result in situations that cause harm.
- Possible harm vs. probable harm.



Incident Management

Provider and case management agency policies for incident management should:

- Prohibit abuse and neglect.
- Adhere to statutory, waiver and regulatory requirements.
- Be clear and direct so all agency personnel have the same understanding of how to identify, document, define, respond to, follow-up on, and analyze incidents.
- Clearly identify agency personnel roles and responsibilities.



Incident Management

- Definitions of incident types should be in accordance with statutory, waiver, and regulatory requirements and definitions.
- All provider and case management agency staff should have initial and on-going training on incident types, identifying incidents, and reporting incidents.
- Waiver participants and their family/guardian should have on-going education on incident types, identifying incidents, and reporting incidents.



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Incident Management

Collecting data- incident reports should include (*but not limited to*):

- Key information to defining the type incidents (*e.g. description of event in objective language*).
- Identifying information that may be used for trend analysis (*e.g. names of those involved, date, time, location of incident, type of incident*).
- Immediate action taken to ensure health, safety, and victim's supports.

Incident Management

- Who in your provider or case management agency reviews incidents?
 - Direct supervisors to executive management
 - Other agency personnel (*e.g. medical staff, human resources, direct care providers, families/guardians, etc.*)
- How often are incidents reviewed?
 - Daily, weekly, monthly
- How are incidents reviewed?
 - Immediate follow-up with staff/providers involved
 - Incident review committee

Incident Management

Incident analysis, data points to consider:

- Type of incident (*e.g. repeated minor injuries of unknown origin*)
- Time (*e.g. incidents occur more often on one shift or during certain daily activities*)
- Date (*e.g. higher number of incidents in one season*)
- Location of incident (*e.g. repeated falls in the bathroom*)

Incident Management

Incident analysis, data points to consider (*cont'd*):

- Name of waiver participant (*e.g. incidents occur more frequently with or to one individual*)
- Name of perpetrator (*if applicable; e.g. incidents occur more frequently with one individual*)
- Name of staff (*e.g. incidents occur frequently when certain staff are on shift*)
- Cause of or antecedent to incident (*e.g. incidents occur frequently for certain stimuli*)



Incident Management

Incident analysis, data points to consider (*cont'd*):

- Result of incident (*e.g. police contact, emergency room visit*)
- Person reporting incident (*e.g. same staff person reports the majority of incidents in the day program*)
- Management oversight (*e.g. small or larger number of incidents for one caseload*)
- Number of incident reports per program (*e.g. extreme variation in numbers*)



Questions?



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Thank You!



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