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IDAPA 15
TITLE 01
CHAPTER 02

COMMISSION ON AGING

15.01.02 - RULES GOVERNING AREA AGENCY ADULT PROTECTION PROGRAMS

000. AUTHORITY.

Under authority of sections 67-5003, 39-5312, Idaho Code, the ICOA adopts the following rules. (7-1-98)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 15.01.02, "Rules Governing Area Agency Adult Protection (AP) Programs". (7-1-98)

02. Scope. These rules relate to the authority and responsibilities of area agencies to provide Adult Protection services. (7-1-98)

002. WRITTEN INTERPRETATIONS.

This agency may have written statements which pertain to the interpretation of the rules in this chapter. To obtain copies, contact the Idaho Commission on Aging by writing to the Administrator. (5-3-03)

003. ADMINISTRATIVE APPEALS.

The ICOA shall provide AAAs with opportunity to appeal administrative decisions related to these rules in accordance with IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General". (7-1-98)

004. -- 009. (RESERVED).

010. DEFINITIONS.

Any item not specifically defined below shall have the same meaning as those defined in Idaho Code or IDAPA 15.01.01, "Rules Governing Idaho Senior Services Program". (7-1-98)

01. Adult Protection (AP). Statutory protections safeguarding vulnerable adults through investigations of reports alleging abuse, neglect, self-neglect or exploitation, and arrangements for the provision of emergency or supportive services necessary to reduce or eliminate risk of harm. (7-1-98)

02. AP Supervisor. AAA employee responsible for overseeing the provision of AP services. The Supervisor's duties include the direct supervision of AP staff, case assignments, the monitoring of case loads and documentation, and the maintenance of cooperative relationships with other agencies, organizations or groups serving vulnerable "at risk" populations. The employee shall be a social worker licensed to practice in Idaho. (5-3-03)

03. AP Worker. AAA employee providing AP services. The Worker's duties include the investigation of AP reports, client risk assessment and the development of plans for protective actions, supportive services and/or law enforcement referral. The employee shall be a social worker licensed to practice in Idaho. (5-3-03)

04. Serious Injury or Serious Imposition of Rights. A situation of substantiated abuse or neglect involving serious mental or physical injury, or exploitation. (5-3-03)

05. Protective Action Plan (PAP). An individual plan addressing the remedial, social, legal, medical, educational, mental health or other services available to reduce or eliminate the risk of harm to a vulnerable adult. A PAP may include a Supportive Services Plan as defined in IDAPA 15.01.01, "Rules Governing Idaho Senior Services Program". (5-3-03)

06. Serious Physical Injury. Includes, but is not limited to: (3-30-01)

a. Severe skin bruising; (5-3-03)

- b. Burns; (3-30-01)
- c. Bone fractures; (3-30-01)
- d. Decubitis ulcers; (5-3-03)
- e. Internal injuries; (5-3-03)
- f. Lacerations; (3-30-01)
- g. Malnutrition resulting in serious medical consequences; (5-3-03)
- h. Subdural hematoma; or (5-3-03)
- i. Soft tissue swelling. (5-3-03)

011. -- 019. (RESERVED).

020. POLICY STATEMENT.

The ICOA is charged by statute to provide AP services to ensure the vulnerable adult population in Idaho is protected from abuse, neglect and exploitation. Protective services shall be provided that are the least restrictive to personal freedom and ensure the maximum independence of individuals served. In protecting the vulnerable adult population, AP services are also intended to provide assistance to care giving families experiencing difficulties in maintaining functionally impaired relatives in the household. (7-1-98)

021. ADMINISTRATIVE REQUIREMENTS.

In accordance with Section 67-5011, Idaho Code, the ICOA shall administer AP services through contracts with AAAs. Each AAA shall adhere to all administrative requirements relating to AP programs and those enumerated in IDAPA 15.01.01, "Rules Governing Senior Services Program," unless a waiver is granted by the ICOA. (4-6-05)

01. Staffing. Each AAA shall provide sufficient staffing to respond to AP complaints within the statutory time frames set forth in Section 39-5304 (2), Idaho Code. (7-1-98)

02. Employee Qualifications. Each AAA shall adhere to standards set forth in rule for the education and licensing of AP program employees, including requirements for the AP Supervisor, AP Worker and Supportive Services Technician. Any person hired after July 1, 1998, to fill the position of AP Supervisor or AP Worker shall be a social worker licensed to practice in Idaho. (7-1-98)

03. Program Reporting and Records. All AAA AP programs shall comply with the ICOA's requirements for reporting and investigative documentation, and shall utilize standardized forms provided by the ICOA. (7-1-98)

04. Conflict of Interest. AP program employees and their immediate families shall not hold a financial interest in agencies, organizations and entities providing care for vulnerable adults. (7-1-98)

05. Program Reviews. Upon prior notice and at reasonable intervals determined by ICOA, ICOA shall conduct on site program reviews of AAA AP programs. (7-1-98)

022. PROVISION OF SERVICE REQUIREMENTS.

In accordance with section 67-5011, Idaho Code, each AAA shall assume all responsibilities cited in Chapter 53, Title 39, Idaho Code. (7-1-98)

01. Direct Provision of Service. Each AAA shall provide AP as a direct service. (4-5-00)

02. Contracts. Each AAA shall provide AP services pursuant to contracts delineating the duties and obligations of each AAA AP program. (4-6-05)

03. Court Visitors. No AP worker shall serve as a court appointed visitor in a guardianship or conservatorship proceeding involving a proposed ward who is or has been the alleged victim in an AP investigation. (4-6-05)

023. -- 030. (RESERVED).

031. INVESTIGATIVE REQUIREMENTS.

01. Review of Allegations. Upon receipt of a report of abuse, neglect or exploitation the AP worker shall conduct a review of the allegations of such report to determine whether: (5-3-03)

a. The report was required to be made to ICOA or its contractors pursuant to Section 39-5303, Idaho Code; (3-30-01)

b. An emergency exists; and (3-30-01)

c. In cases involving resident-to-resident contact reported pursuant to Section 39-5303(A), Idaho Code, determine whether the case involves the sexual abuse, death, or serious physical injury jeopardizing the life, health, or safety of a vulnerable adult, or involves repeated physical or verbal altercations between residents, not resulting in observable physical or mental injury, but constituting an ongoing pattern of resident behavior that a facility's staff is unable to remedy through reasonable efforts. (4-6-05)

02. Need for Investigation. If, based on its review, the AP worker determines that a report involves a nursing facility defined in Section 39-1301(b), Idaho Code, and was required to be made to the Department pursuant to Section 39-5303, Idaho Code, the AAA shall immediately refer the report to the Department. If, based on its review, the AAA determines that a report involving resident-to-resident contact was exempted from reporting by Section 39-5303A, Idaho Code, no further investigation need be conducted on such report. The AAA shall investigate all other reports. (5-3-03)

03. Vulnerability Determination. Upon investigating an AP report, each AP worker shall determine whether an alleged victim is vulnerable as defined in Section 39-5302, Idaho Code. If the alleged victim is determined to be vulnerable as defined in Section 39-5302, Idaho Code, the AP worker shall continue the investigation. If the alleged victim is not vulnerable as defined in Section 39-5302, Idaho Code, the case shall be closed; however, the AP worker may refer the complaint to Information and Assistance, Case Management, the Ombudsman, law enforcement or other appropriate entity for investigation and resolution. (5-3-03)

04. Assessment of Alleged Victim. An alleged victim's vulnerability and associated risk factors shall be determined through the administration of a risk assessment instrument or other standardized assessment forms. Initial interviews and assessments of an alleged victim shall be conducted by an AP worker. (4-6-05)

05. Investigative Determinations. An AP worker shall make one (1) of two (2) investigative determinations upon completion of an AP investigation: (4-6-05)

a. Substantiated. A report of abuse, neglect, and/or exploitation of a vulnerable adult by another individual is deemed substantiated when, based upon limited investigation and review, the AP worker perceives the report to be credible. A substantiated report shall be referred immediately to law enforcement for further investigation and action. Additionally, the name of the individual against whom a substantiated report was filed shall be forwarded to the Department pursuant to Sections 39-5304(5) and 39-5308(2), Idaho Code, for further investigation. In substantiated cases of self-neglect, the AP worker shall initiate appropriate referrals for supportive services with the consent of the vulnerable adult or his legal representative. (4-6-05)

b. Unsubstantiated. The AP worker shall close the file if a report of abuse, neglect, and/or exploitation by another individual of a vulnerable adult is not substantiated. If a report is not substantiated, but the AP worker determines that the vulnerable adult has unmet service needs, the AP worker shall initiate appropriate referrals for supportive services with consent of the vulnerable adult or his legal representative. (4-6-05)

06. Protective Action Plan. Upon substantiating a report of abuse, neglect or exploitation of a vulnerable adult, the AP worker shall develop and implement a PAP. (5-3-03)

07. Caretaker Neglect. In investigating a report of caretaker neglect, the AP worker shall take into account any deterioration of the mental or physical health of the caregiver resulting from the pressures associated with care giving responsibilities that may have contributed to the neglect of the vulnerable adult. In such cases, the AP worker shall make every effort to assist the primary caregiver in accessing program services necessary to reduce the risk to the vulnerable adult. In AP cases in which family members are experiencing difficulties in providing twenty-four (24) hour care for a functionally impaired relative, the AP worker shall make appropriate referrals to available community services to provide needed assistance. (5-3-03)

08. Adult Protection and Ombudsman Coordination. AAAs shall ensure that AP staff and the substate ombudsman maintain a written agreement establishing cooperative protocols in the investigation of complaints. (3-30-01)

09. Confidentiality. All records relating to a vulnerable adult and held by an AAA are confidential and shall only be divulged as permitted pursuant to Sections 39-5307, 39-5304(5), 39-5308, Idaho Code, and IDAPA 15.01.01, Section 028, "Rules Governing Senior Services Program". (3-30-01)

032. SUPPORTIVE SERVICES AND CASE CLOSURE.

01. Supportive Services Plan. If determined necessary to reduce risk to a vulnerable adult, in substantiated cases and as part of a PAP, the AP worker shall refer the case to Case Management for the development and implementation of an SSP with the consent of the vulnerable adult or his legal representative. (4-6-05)

02. Documentation of Client Consent. A vulnerable adult's consent, refusal to grant consent, or withdrawal of consent to an SSP shall be documented in the client case record. (5-3-03)

03. Case Closure. AP shall close a case under the following circumstances: (7-1-98)

a. The AP worker shall close a substantiated case upon a determination that an initiated PAP, SSP or law enforcement involvement has successfully reduced the risk to the vulnerable adult. (5-3-03)

b. The AP worker may close a substantiated case when the vulnerable adult refuses to consent to receive services, or upon a determination that the AAA has implemented all measures available to reduce risk but has been unable to reduce risk. (5-3-03)

c. The AP worker may close a case if another program or agency has agreed to assume responsibility to monitoring and reviewing implementation of an SSP. (5-3-03)

d. A case shall be closed if the AP worker determines that an allegation has been made in bad faith or for a malicious purpose. (5-3-03)

04. Suspense File. Closed cases shall be maintained in a suspense file until formal action is completed by law enforcement and/or the courts in the following instances: (7-1-98)

a. Cases referred by an AP worker to law enforcement for criminal investigation and prosecution as determined necessary by the law enforcement agency. (5-3-03)

b. Cases referred by an AP worker for guardianship/conservatorship proceedings. (5-3-03)

033. -- 999. (RESERVED).

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