

**Incident Reporting APD
Summary of AAA Comments -- Q & A
January 2, 2008**

1. PS information is not shared with the waiver care managers. The separation allows the waiver services to continue without being compromised by the PS investigation and does not put the care manager into a position of knowing information that could impact the client/worker relationship.

OLTL response: The APD now provides that AAA Protective Services staff should complete the Incident Reporting form when the alleged incident involves a PS Report of Need. AAA Care Management staff should continue to receive information from Protective Services to the extent that the matter impacts or relates to Waiver service delivery.

2. If PS is going into a waiver situation, it would seem that the only information that the waiver care manager should submit is that PS is now involved. It is not appropriate to give any other information. The report that PS is involved should be in a format that it is not in the record. Any additional information should be gathered between Depts at the state level always keeping in mind the strict confidentiality in the provisions of the law.

OLTL response: The APD now provides that AAA Protective Services staff should complete the Incident Reporting form when the alleged incident involves a PS Report of Need. A referral to PS is considered a resolution to an incident within the Aging Waiver. No further information is required through this process. As noted in the APD, the incident reports in SAMS that involve a referral to PS will be limited to those staff with PS authority.

3. If the Aging Waiver Care Manager provides a brief description of allegations in a RON on the incident report, it seems as though this is a violation of the Protective Services for Older Adults requirements. Specifically, Maintenance of case records. If any reference to a protective services investigation is put into a file, other than the PS file, it would be a violation of 15.102, even though the reference is intended to be a brief description. Information would be part of a Waiver case that would not be expunged. If the incident reports are maintained separately from the Waiver cases, without identifying information, for purposes of tracking trends and collecting data, I would think these requirements would be satisfied. If it is necessary to be able to identify the consumer a number could be assigned, by the AAA, on the incident report, which would enable the AAA to locate the consumer's Waiver file if needed.

OLTL response: The incident report is not a PS case record. As noted in the final version of the APD, the incident report should not include a description of the allegations (beyond identifying whether the allegations concern abuse, neglect, exploitation or abandonment) if the incident was referred to Protective Services. As far as the investigative action or resolution, the incident report only needs to state that a referral was made, not the detail on an ongoing PS investigation.

4. Will the comment that a P.S. report has been made suffice? How much detail needs completed in the Resolution section? We currently deal with a similar form with the D.O.H.'s PB22.

OLTL response: Yes, a referral to PS is considered an appropriate investigative action and resolution of an incident. PS is only to share information about the PS investigation with AAA Care Management staff to the extent that it impacts the provision of waiver services.

5. Should Waiver let PS know that an "incident report" has been made on a Waiver consumer? Is the referral to PS considered the resolution? Is Emergency Services for the Waiver consumer,

authorized by PS paid for with Waiver funds? In the future will there be any consideration for funding from Waiver to be used on behalf of a Waiver Consumer in PS? Examples are Emergency Interventions, Guardianships, Overtime for PS staff working on a Waiver consumer? Does the AAA Protective Services need to report patterns or trends to OLTL in addition to PDA Division of Consumer Protection?

OLTL response: If an AAA Care Manager becomes aware of an incident and believes that a referral to Protective Services is appropriate, the Care Manager should make that referral and the PS staff should document the incident report for OLTL. If the incident does not fall under Protective Services, Care Management staff should follow the procedures in the APD for reporting the incident to OLTL. This APD does not change the current funding structure for Waiver services versus PS. This APD does not create an obligation for AAA PS staff to report patterns and trends to PDA or OLTL .

6. Our Waiver staff has expressed concern that it may occasionally take longer than five (5) days to fully ensure the resolution of a reportable incident, especially when involvement of an outside agency , (i.e. law enforcement), has occurred, and a report is being awaited. Can provisions be made for this in the APD?

OLTL response: Agencies are to report the incident within 2 business days of discovery. Within 5 business days of reporting an agency is required to follow up by describing the investigative action that has been taken. Resolution of the incident and recommendations for prevention of this type of incident in the future are to be reported within 30 calendar days. If the incident was referred to Protective Services, AAAs do not need to update OLTL on investigative actions, resolutions or recommendations.

7. On the form it states "management employee" in a box labeled "Recommendation for Prevention of reoccurrence ". Who is the management employee, AAA or OLTL?

OLTL response: AAA staff

8. How should AAAs report current consumers who meet this criteria (prior to the effective January 1, 2009 date of this APD). Will the Department want to “capture” those consumers currently in resolution of a critical incident? What about the cases approved for Waiver but pending services? Does this APD ONLY apply to those consumers that are receiving Waiver Services?

OLTL response: This APD applies to incidents for individuals actively receiving Aging Waiver services effect January 1, 2009.

9. This is an overall comment; the APD provides for an incident reporting mechanism for the AAAs and makes the assumption that the AAA is going to be aware of the incident. Have we set any obligation upon the waiver providers to report incidents to the AAA?

OLTL response: OLTL has shared the APD with the Home Care Association. All providers of Aging Waiver services will receive a copy of the final APD.

10. Under Discussion, 1.a.i. and 1.a.v., the term “injury” is listed. Should there be some additional explanation to show how the two types of injuries differ? I am assuming that under v.,

the injury is something that occurs separate from the provision of waiver services, but am not sure.

OLTL response: 1.a.v. pertains to injuries that occur outside the provision of waiver services.

11. Does this include injuries that may be caused by a Waiver consumer and require treatment beyond first aid for someone providing care to the consumer? For example, would an injury to a personal care worker received while providing care to a Waiver consumer, be reported?

OLTL response: Yes

12. Absence of Services

We feel there is a need for further clarification about incidents that occur “as a result of the absence of Waiver services”. Our assumption is that the absence of Waiver service could mean that a worker was scheduled and failed to report and a consumer received an injury. This could also mean that responsibilities of an informal support as outlined in the Care Plan are not being provided resulting in a negative occurrence for the consumer. Does the reporting include failure of informal supports? Our confusion seems to indicate a need for clarification.

OLTL response: Absence of services refers to a situation when either formal or informal services that were described on the participant’s service plan were scheduled for delivery, but were not delivered.

13. Under 1a, is OLTL interested in having reported fires in the homes of Waiver consumers where death or injury does not result to the consumer and does not result in any service disruption?

OLTL response: No; however, OLTL would expect that the Care Manager would be made aware of such events and that they would be addressed in the participant’s service plan as part of ongoing risk management.

14. Could we have expanded clarification of “as a result of waiver services”? As an example, if a consumer falls while being transferred by a PCA is that a reportable incident? As an example, would a PCA no-showing for scheduled shift be considered a reportable incident? Another example would be if a PCA provided service outside of the regulatory scope of PCA activities i.e....dispensing medication. If a fall occurs while an informal support is in the home and chooses not to send the consumer to the hospital. Is that a reportable incident? If the consumer is at home alone and falls but does not seek medical treatment, is that a reportable incident when and if the AAA learns of the incident? Again clarification. If a consumer who is alert and oriented and chooses to continue a high risk behavior i.e....smoking while using oxygen which causes a fire, despite the AAA attempt to intervene and reduce the risk. Is that a reportable incident?

OLTL response: If formal or informal services, documented on the service plan, cause the injury, that injury is a reportable incident. If scheduled Waiver services are absent or late and a Waiver participant is injured, hospitalized or dies as a result, those incidents are a reportable. If an individual makes an informed decision to continue high risk behavior and that behavior causes a fire in the home but the participant is not injured and there is no temporary or permanent service termination that is not a reportable incident through this APD. If a participant falls while alone

during a time when there were no scheduled formal or informal supports in the home and does not suffer an injury that requires treatment beyond first aid, the injury is not a reportable incident.

15. Definitions-The circumstances requiring an incident to be reported is somewhat unclear. For example, is an event reportable even if there is no documentation that the death or injury is the result of waiver services or the lack thereof? What if an incident occurred and the AAA is not informed that the incident occurred until after it has been satisfactorily resolved, would this still be reportable? It would be helpful to have a working definition of a critical incident. One such example may be as follows: any event that creates a significant risk of **serious** harm to the physical or mental health, safety or well being of an aging waiver consumer.

OLTL response: For the purposes of this APD incidents are defined at i-v.

16. “Misconduct by any Aging Waiver service provider or their representative1; should be further explained and defined to clarify if this could be “alleged” misconduct, or misconduct that is proven, and how the AAA determines if”misconduct” has occurred.

OLTL response: This includes alleged provider misconduct