

Older Adult Protective Services Investigations

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Module Overview

The protective service worker is responsible for conducting an investigation to determine if by a preponderance of the evidence the allegations in the Report of Need are accurate or if there is any other reason why the older adult may fit the criteria of an older adult in need of protective services as defined in the Act. The intent of this section of the manual is to establish a minimum standard for AAA to model its performance.

Learning Objectives

By the end of this module, you will:

- Know the Laws regulations, Aging Program Directives (APD) and PDA Aging Technical Assistance Bulletins (ATAB) that provide the guidelines for conducting an investigation.
- Know the level of evidence needed to substantiate an investigation.
- Know the parameters of conducting an abbreviated investigation.
- Know the timeframes for responding to a Report of Need.
- Know information needed to complete the Investigation Report Form.
- Know the level of evidence needed to determine the outcome of an investigation.
- Know the possible outcomes of an investigation.
- Know perpetrator designation requirements.

Study Steps

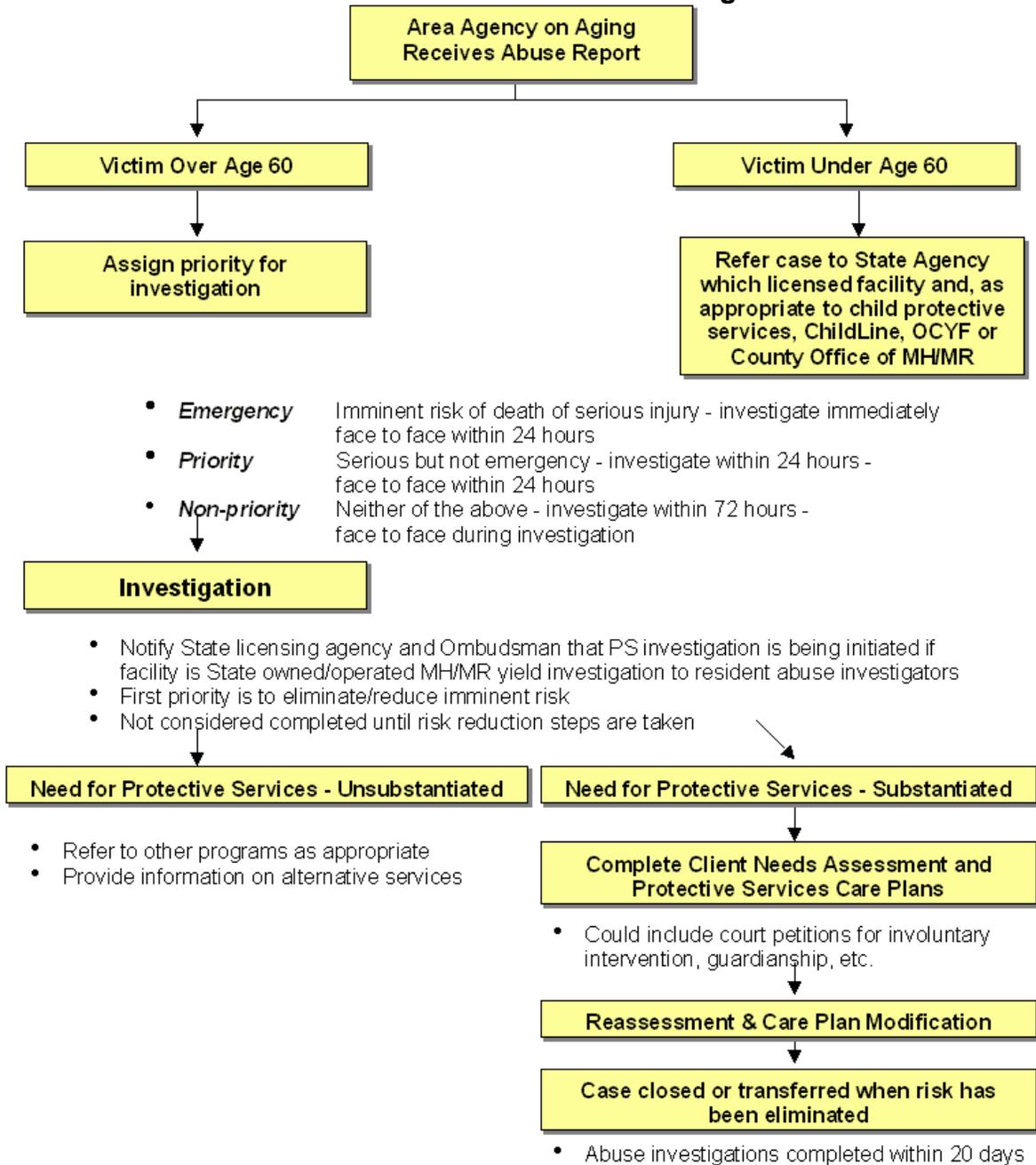
1. Prior to reading this module it would be beneficial to:
 - a. Shadow an experienced worker on a protective service abuse investigation.
 - b. Read a completed case record that documents either abuse, neglect or exploitation from the Report of Need (RON) to a completed investigation.
2. Review the content of this section.
3. Review referenced Sections of the Older Adult Protective Services Act 35 P.S. § **10225.303** and § **10225.308**, Aging Program Directives (APD) and Aging Technical Assistance Bulletins (ATAB).
4. Review recommended Acts, Laws and Regulations.
5. Complete the self-evaluation quiz and use the answer key to review your answers.
6. Review the content of any of the questions you answered incorrectly.

7. Plan with your supervisor to complete transfer of learning activities.

Content

Read the module, Older Adult Protective Services Investigations.

**Pennsylvania Department of Aging
Protective Services for Older Adults Case Management Flow Chart**



Protective Service Investigation

Every case is different and it is not possible to outline a specific process for conducting a protective services investigation. The intent of this section is to establish a minimum standard as a model for every AAA.

It is first very important to note that this process is not an assessment or any other type of casework; it is an investigation.

A. Goal of a Protective Services Investigation

- a. The protective service worker is responsible for determining by a preponderance of the evidence (See page 13 of this module for definition) if the allegations in the Report of Need are accurate or if there is any other reason why the older adult may fit the criteria of an older adult in need of protective services as defined in the Act. If by a preponderance of the evidence the protective services worker's investigation does confirm the details of a report or determines that the subject of the report is an older adult in need of protective services, the report shall be classified as a substantiated report.
- b. If the PS worker's investigation does confirm the details of a RON or determines that the subject of the report is an older adult in need of protective services, the report shall be classified as substantiated.
- c. Confirming the allegation(s) would warrant substantiation only if the client fits the criteria for an older adult in need of protective services when the "abusive action" took place. *Aging Program Directive 93-12-02, Protective Services Investigations p. 4.*
- d. Investigation is defined by the PA Department of Aging Regulations (6 Pa. Code § 15.2) as "a systematic inquiry conducted by the agency to determine if allegations made in a report of need for protective services can be substantiated, or if the older adult referred to in the report of need is an older adult in need of protective services, or both."
- e. Photographs. There is an old axiom "a picture is worth a thousand words." That axiom is very true and where the investigation of allegations of abuse or neglect of a consumer reveals bodily injury, the agency should make every effort to photograph the consumer's injuries, or have them photographed by health care personnel. The photograph should clearly reflect the totality of the circumstance which the consumer is experiencing. If the consumer has multiple injuries covering his/her body, photographs should both reflect the broad pattern of injuries as well as each individual one. The person taking the photograph should place some item in the photograph that will help a person viewing it to assess the size of the injury or wound and, if possible, include a color scale so that areas of skin that are reddened or darkened can be compared in the photograph with the color scale used by the photographer. Photographs should be taken in such a fashion to document where the photographs took place, the time

it occurred, and documentation should be made of others present. The photographs and documentation should clearly reflect who the client is and that the client, or his/her decision maker gave permission for the photographs, or that medical personnel took them in the course of their documentation and diagnosis for treatment and care.

B. Abbreviated Investigation: An abbreviated investigation may occur when

- a. The older adult states that the investigation should not continue or is uncooperative;
 - i. **IMPORTANT NOTE:** In an emergency, the AAA can request a court order to provide protective services without the consent of an older person. For a situation to be deemed an emergency, there must be clear and convincing evidence (See page 14 of this module for definition) that the older adult is at imminent risk of death or serious bodily harm if protective services are not provided (35 P.S. § 10225.307).
- b. No collateral contacts have been made;
- c. The PS worker is confident that there is no indication of abuse, neglect, exploitation or abandonment.
- d. Other Notes: The Department's position has been and will continue to be that all reports of need must be thoroughly investigated. Interviews with appropriate collateral contacts should be pursued based on the case presented. In those limited instances where a protective services worker interviews the older adult and is satisfied that no other contacts are necessary to conclude that there is potentially no abuse, neglect, exploitation or abandonment occurring, the discretion of the protective services worker is controlling. The basis for this conclusion, however, must be clearly documented in the record.
 - i. An example of this scenario is when a complainant constantly reports a problem that has been thoroughly investigated on numerous occasions. The problem lies with the reporter, not the alleged victim, and the issue of bad faith reporting surfaces.
 - ii. The protective service worker can close the case and classify it as unsubstantiated. The protective service supervisor and the Area Agency on Aging Director must review and initial the case record that will indicate their respective concurrences in the classification of the case. This does not apply to those instances where abuse, neglect, exploitation or abandonment is observed or suspected by the protective services worker, regardless of the assertions of the alleged victim or the victim's request for termination of the investigation. In those instances, the Department expects a full and complete investigation. *Aging Program Directive 93-12-01 Protective Services Investigations, pp. 1-2. and APD 03-01-06 Home and Community Based Services Manual, Chapter 3.*

C. Three Important Issues Regarding a Protective Service Investigation

- a. The client has the right to self-determination. Although the older adult has the right to refuse to participate in an investigation, the protective service worker must complete the investigation in a manner that will satisfy the intent of the Older Adults Protective Services Act and provide sufficient information to determine the final classification. The Department of Aging (PDA) advocates the client's right to self-determination. PDA recognizes that there are rare occasions when a protective service worker may find an older person who presents as a reliable reporter, requests a termination of the investigation, or claims the allegations are not true and there is nothing to support that the older adult may fit the criteria of an older adult in need of protective services. On the rare occasions that this occurs, the protective service worker may terminate the investigation after obtaining written confirmation by a supervisor trained in protective services and written acknowledgement by the AAA Director. This "abbreviated investigation" was addressed above.
 - i. Victims can refuse to accept services offered by an AAA (35 P.S. § 10225.304(b)). A victim has the right to be told that someone has reported that he or she might be the victim of abuse, and need protective services to ensure safety and security.
- b. The protective service worker is not required to obtain written or any other form of permission, to interview friends, relatives, neighbors, and anyone else pertinent to the investigation.
- c. The PS workers must make every effort to conduct interviews will ALL necessary parties to complete a thorough investigation. In most cases, PDA will not consider investigations restricted to interviews with only the older adult (or the older adult and the alleged perpetrator) as sufficient within the guidelines of Older Adults Protective Services Act. Protective service workers have a limited caseload that affords them sufficient time to conduct a thorough investigation. It is understood, however, that there are older adults that are so isolated that it is impossible to locate significant others to interview. In these circumstances, the Protective Service worker should clearly document his/her effort to conduct an in-depth investigation and clearly outline the rationale of his/her conclusion.
 - i. There are several reasons why an older adult and the alleged perpetrator(s) are considered poor reporters:
 1. The older adult may have difficulties with cognitive functioning.
 2. The older adult may not want to implicate the perpetrator/relative out of fear, dependence, etc.
 3. The perpetrator may be threatening the client.
 4. Perpetrators rarely implicate themselves.
 5. See, *Aging Program Directive 93-12-02, Investigations pp 4-5 and APD 03-01-06 HCBS Manual, Chapter 3.*

D. Initiating the Protective Services Investigation

- a. Review the RON
- b. Immediately, based on the information contained ONLY in the RON, determine if the referral category should be changed or confirmed.
- c. ANY additional phone contacts or field visits constitute the initiation of an investigation that must be completed in its entirety within the guidelines of the Older Adults Protective Services Act.
- d. ANY time, even one additional phone contact or visit occurs, the RON may NOT be reclassified as “no need for protective services.” A full investigation must be completed and then classified based on the outcome of the investigation (“unsubstantiated” if it is found that the client does not fit the criteria for an older adult in need of protective services).
- e. The Act allows access of AAAs to victims (35 P. S. § 10225.304(e)) and to victims’ records (35 P.S. § 10225.304(d)). If anyone interferes with access to the victim or to pertinent records, the AAA can request a court order requiring access (35 P.S. § 10225.304(f) and (h)).

E. Timeframe: Standards for Initiating and Conducting Investigations (§ 15.42)

(Note: All citations in this section refer to 6 Pa. Code, Chapter 15). The Older Adults Protective Services Act identifies specific timeframes for the initiation of the investigation, the initial face-to-face interview with the older adult, and the conclusion of the investigation. The protective service worker is responsible for the timing of each interview. The worker must comply with the timeframes specified in the Act in order to assure that the investigation is conducted expeditiously.

a. Emergency report:

- i. The investigation of a report categorized as emergency shall be initiated immediately following the referral of the report. The protective services caseworker shall make every attempt to ensure the immediate safety of the older adult and to conduct a face-to-face visit as soon as possible. The agency shall assure that reasonable attempts will be made to conduct a face-to-face visit within 24 hours after the report is received.
- ii. When, after reasonable efforts to gain access to the older adult, the protective services caseworker is denied access, the caseworker shall document the efforts made and take action, as appropriate, under § 15.61 or § 15.71 (relating to access to persons; and involuntary intervention by emergency court order).

b. Priority report:

- i. The investigation of a report categorized as priority shall be initiated as soon as possible. The agency shall assure that reasonable attempts to initiate the investigation will be made within 24 hours after the report is received. The investigation of a priority report is initiated only by contact with the older adult reported to need protective services. The protective services caseworker shall make

every attempt to visit with the older adult face-to-face within the 24 hours provided. When, after reasonable efforts to gain access to the older adult, the caseworker is denied access, the caseworker shall document the efforts made and take action, as appropriate, under § 15.61 or § 15.71.

- c. Non-priority report:
 - i. The investigation of a report categorized as non-priority shall be initiated in a timely manner but never later than 72 hours after the report was received. At the discretion of the agency, the initiation of an investigation of a non-priority report shall include a visit to the older adult reported to need protective services when details in the report indicate a need to see and talk with the older adult face to face to secure or verify facts essential to the ongoing investigation.
 - ii. The investigation of a report categorized as non-priority shall include at least one visit to the older adult reported to need protective services at an appropriate point in the course of the investigation. Every attempt shall be made to visit with the older adult face to face. When, after reasonable efforts to gain access to the older adult, the protective services caseworker is denied access, the caseworker shall document the efforts made and, when appropriate, take action under § 15.61 or § 15.71.
- d. Another planning and service area (§ 15.23(d)) Refer this report to the agency which has the designated responsibility for protective services in the planning and service area in which the older adult reported to need protective services is located at the time of the report.
- e. No need for protective services: (§ 15.26 and §15.42) A report shall be placed in this category when the person reported to be in need of protective services meets one or more of the following criteria:
 - i. Is under 60 years of age.
 - ii. Has the capacity to perform or obtain, without help, services necessary to maintain physical or mental health.
 - iii. Has a responsible caretaker at the time of the report.
 - iv. Is not at imminent risk of danger to his person or property.
 - v. A report in this category shall be referred to a protective services caseworker of the agency within the normal business hours of the agency's current or next day of business. The protective services caseworker shall review the details of the report and take whatever steps necessary to confirm or reject the categorization of no need for protective services. If the caseworker confirms the screening categorization, appropriate referrals shall be made to the area agency on aging care management system or, if concerning an adult under 60 years of age, to another community agency. If the caseworker rejects the categorization, the report shall be placed in the appropriate category and be handled accordingly.

- vi. A report may not be placed in this category if the older adult is temporarily relocated to a safe environment and will return to the original abusive situation or to a new location which has not been determined to be safe.
 - vii. The investigation of a report categorized as no need for protective services shall consist of the protective services caseworker's review of the report categorization. If the caseworker agrees with the initial categorization, appropriate referrals shall be made within 72 hours after the report was received, to the area agency on aging service management system or, if concerning an adult under 60 years of age to another community agency, if available. If the caseworker does not agree with the initial categorization, the report shall be placed in another category in this subsection and addressed under the applicable provisions for investigating a report in that category.
- f. Reports involving county or area agency on aging employees: (§15.42(b)).
- i. If the agency is required to investigate a report which alleges that abuse, neglect, exploitation or abandonment has been perpetrated by an employee of the county, the area agency on aging or its subcontractor, the agency shall notify the Department as early as possible during the current or next day of normal business hours. The notification shall be made by phone to a person designated by the Department and shall include the pertinent details of the report. A copy of the completed report of need shall be immediately forwarded by mail to the Department. Copies of written records of investigative activities shall also be forwarded to the Department for review. The Department reserves the right to intervene in the agency's investigation of a report under this subsection if it is determined appropriate to assure a fully objective investigation.

F. Gathering Information

Information on conducting various types of interviews is available in the Interviewing section of this study guide.

- a. Investigations of alleged abuse or neglect must include the accumulation of information on the older adult's medical condition, at least as it relates to the allegation(s).
 - i. The client's physician is an excellent resource and protective service workers should interview the physician early in the investigation. (Even if medical issues are not alleged, the client's physician is an excellent source of information about the client).
 - ii. When interviewing the older adult's physician, the protective service worker must also ask questions that will solicit information about potential abuse or neglect. For example:
 - 1. Dr. Smith, have you ever observed any suspicious bruising or other symptoms that may be associated with abuse?

2. Dr. Smith, have you observed any symptoms of malnourishment, dehydration or other symptoms associated with neglect?
 3. Dr. Smith, is your patient's condition such that you may question how reliable he/she has been in appropriately medicating himself/herself?
 4. Dr. Smith, what is your opinion on your patient's ability to make an informed decision? In your opinion, is your patient capable of making an informed decision?
- iii. These questions should be a routine part of a protective service investigation. The last question is important because it gives the protective service worker a professional opinion on the older adult's cognitive functioning ability. This is important when developing the care plan.
 - iv. See, *Aging Program Directive 93-12-02, investigations p. 6-9.* and APD03-01-06 HCBS Manual, Chapter 3.
- b. Other available resources: Many elderly fail to see a physician on a regular basis and pertinent information from a physician may not be available. The protective service worker has the discretion to determine when it is necessary to interview such collateral resources and who to interview. These interviews should occur when the protective service worker has been unsuccessful in gathering other pertinent information from professionals. It is important to note that it is not the quantity of information obtained from collateral resources, but the quality, that is important. Some potential collateral resources are:
- i. Home Health Agency
 - ii. Nurse Supervisor
 - iii. Home Health Aide
 - iv. Personal Care Worker
 - v. AAA Consultants (Physician and Registered Nurse)
 - vi. Mental Health/Mental Retardation Agencies
 - vii. Significant Others
 1. To do so objectively, however, requires the protective service worker to interview several of the significant others.
 - viii. Relatives
 - ix. Friends
 - x. Neighbors
- c. Keep in mind that the investigation is occurring to protect a vulnerable person where there is evidence of a risk. It would further the risk to the older adult to limit the scope of the investigation and close the case without evaluating any corroborating "evidence." It would also be damaging to the alleged perpetrator if a case with a limited investigation implicates the perpetrator without the benefit of evaluating corroborating "evidence."

- G. Confidentiality (6 Pa. Code § 15.103)** It is critical to maintain the older adult's rights or confidentiality when interviewing friends, neighbors or relatives.
- a. Protective service workers can effectively interview these people without breaching rights/confidentiality by using appropriate questions. The following is an example of how to initiate an interview:
 - i. My name is John Doe and I work for the local office on aging. We received a referral for your [friend/neighbor/relative], Mrs. Smith. I am visiting you today to see if you have any concerns about her or if there is any information that you could provide me so I can determine if there are any services our agency can offer to her.
 - b. Such an opening, with additional probing questions based on the response (without providing details of the Report or other confidential issues), should generate usable information.
 - c. Protective service workers, supervisors, stand-by and clerical staff must complete and sign a confidentiality statement. Before execution of the form, the employee should be fully advised of confidentiality provisions and penalties set forth at (§ 15.103) of the Protective Services Regulations. Subsequent to execution, the form should be maintained in the employee's personnel file.
 - d. Violating confidentiality
 - i. If a staff person who is authorized to have access to confidential information under this chapter is strongly suspected of violating the requirements in the signed confidentiality statement under § 15.103(c) (relating to responsibilities of staff with access to confidential information), that person shall be immediately suspended from protective services duties pending an investigation and determination of culpability.
 - ii. If a staff person who is authorized to have access to confidential information under this chapter is determined upon investigation to have violated the requirements in the signed confidentiality statement under § 15.103(c), that person shall be subject to the appropriate disciplinary action in the confidentiality statement.
- H. Access to records (6 Pa. Code § 15.62):** The agency shall have access to records relevant to:
- a. Investigations of reports of need.
 - b. The assessment of need and the development of a service plan when an older adult's need for protective services has been or is being established.
 - c. The delivery of services arranged for under the service plan developed by the agency to respond to an older adult's assessed need for specific services.
 - d. Except in emergency or priority protective services cases, access to records shall be between the hours of 7 a.m. and 9 p.m.
 - e. When access to records is denied. If the agency is denied access to records necessary for the completion of a proper investigation of a report

or an assessment and service plan, or the delivery of needed services to prevent further abuse, neglect, exploitation or abandonment of the older adult reported to need protective services, the protective services caseworker shall clearly inform the party denying access to the records of the legal authority for access as set forth in section 304 of the act (35 P. S. § 10225.304) by the agency and the available recourse through a court order. If the party continues to deny access to relevant records, the agency may petition the court of common pleas for an order requiring the appropriate access when one of the following conditions applies:

- i. The older adult has provided written consent for confidential records to be disclosed and the keeper of the records denies access.
 - ii. The agency is able to demonstrate that the older adult is denying access to records because of incompetence, coercion, extortion or justifiable fear of future abuse, neglect, exploitation or abandonment.
- f. Access to records by consent. The agency's access to confidential records held by other agencies or individuals and the agency's access to an older adult reported to need protective services shall require the consent of the older adult or a court-appointed guardian except as provided under 6 Pa. Code § 15.61, § 15.62 or § 15.71 (relating to access to older adults; access to records; and involuntary intervention by emergency court order).
- I. **Documentation** (*Additional information on documentation is available in the Reporting and Documenting module of this study guide*).
- a. Document all interviews and efforts, especially if, after a thorough investigation, the protective service worker is unable to detect any pertinent medical information.
 - b. Carefully document all contacts and/or attempts, especially if after a thorough investigation he/she is unable to identify many (or any) significant others who can offer corroborating information.
 - c. The protective service worker must describe the contacts with all collateral resources and a brief description of their impressions and the worker's findings in the case narrative sections of the file.
 - d. Include a list of collateral contacts in the Older Adults Protective Service Investigation Summary and Assessment form.
- J. **Investigation Report Form (IRF)** (See, *Aging Program Directive 97-24-01 PS RON and Investigative Summary p. 10*).
- a. Document in which the PS worker records his/her findings during the investigation of a PS case. The information documented on the IRF will be used to identify problem(s) and support his/her conclusion of whether or not to substantiate the case.
 - b. Requirements when completing the Investigation Report Form

- i. Complete every section of the form
- ii. Complete each section in a manner that will give a clear picture of
 1. The client
 2. Type of abuse
 3. The alleged perpetrator
 4. And the environment
- iii. Include written narrative under observations section
- iv. Reflect the number of days required to complete the investigation
- v. Include documentation of all interviews and observations
- vi. If space is not available on the IRF use additional paper or the electronic equivalent
- vii. Action Taken Section – immediate steps taken by the PS worker to reduce risk prior to the assessment and implementation of the care plan.
 1. For example: Placed the client in a Personal Care Home until the heat was restored.
 2. Do not give an extended summary of all the steps of the investigation. All the steps will be documented in the actual report.

K. **PS Investigation Outcomes** (See, *Aging Program Directive 93-12-02, investigations p. 11-13 and APD 03-01-06 HCBS Manual, Chapter 3, 6 Pa Code Chapter 15, Sections 15.43 & 15.44*)

Note: Case examples can be found beginning on page 11 in the *Aging Program Directive 93-12-02*, which is part of Appendix B of this study guide.

- a. There are two separate determinations involved in a protective services investigation:
 - i. **Substantiation** of the need for protective services
 - ii. **Designation of a perpetrator**
- b. Substantiation of the need for protective services.
 - i. When an investigation confirms the details of a report made under 6 Pa. Code § 15.23 (relating to receiving reports; general agency responsibility) or determines that the subject of the report is an older adult in need of protective services, the report shall be classified as substantiated.
 - ii. The agency shall provide for a timely assessment of the need for protective services by the older adult who is the subject of a substantiated report if the older adult gives informed consent to an assessment. If an older adult found to need protective services does not consent to an assessment, the agency may seek, when

- appropriate, a court order under 6 Pa. Code § 15.61 (relating to access to persons).
- iii. On the basis of the assessment, the agency shall provide for the development of a service plan of recommended actions which reflect the least restrictive alternatives for removing or reducing imminent risk to person or property and promote self-determination and continuity of care being provided at the time of the agency's intervention. The service plan may include, when appropriate, the pursuit of civil or criminal remedies.
 - iv. Developed service plans shall be put into effect under 6 Pa. Code § 15.94 (relating to service delivery).
 - v. If the investigation substantiates the need for protective services, a written client 'needs assessment' must be prepared and services must be offered. The older person has the right to refuse services (35 P.S. § 10225.304(b)).
- c. Designation of a perpetrator: A perpetrator is an individual who, as a result of a substantiated protective services investigation has been determined to be responsible for the abuse, neglect, exploitation or abandonment (ANEA) of an older adult AND has been either specifically designated as a perpetrator of ANEA in the official protective services case record or referred to a law enforcement agency, court or regulatory agency for the purpose of initiating action against the individual.
- i. Rights of alleged perpetrators (35 P.S. § 10225.308(b)) & (6 Pa. Code §15.82)
 1. The alleged perpetrator or alleged abuser is entitled to be notified and given a summary of the allegations substantiated concerning him or her; see. *R. v. Com., Dept. of Public Welfare*, 636 A. 3d 142 (Pa. 1994, citing, *Paul v. Davis*, 424 U.S. 693, 96 S. Ct. 1155 (1976)).
 2. The agency shall notify the alleged perpetrator at the conclusion of the investigation of the report that allegations have been made and shall provide the alleged perpetrator with a brief summary of the allegations.
 3. The alleged perpetrator may request, and the agency shall provide, additional information contained in the report. (6 Pa. Code § 15.105)
 4. An alleged abuser has the right to challenge the findings of an AAA's investigation by filing an appeal with the Pennsylvania Department of Aging. Pa. Code Chapter 3 describes the informal appeal process and 1 Pa. Code Chapter 35 describes the formal appeal process.
 - ii. The standard of evidence for **substantiation of the need for protective services is "Preponderance of the Evidence."** Preponderance of the Evidence is described by imagining

weighing evidence on a balanced scale. If the evidence offered in support of the claim (allegation) is so much weightier than the evidence offered in opposition to it that it tips the scales on the side of the claim, then the claim (allegation) is proven by the fair weight of evidence.

- iii. The standard of evidence for **perpetrator designation is “clear and convincing.”** Clear and convincing is described as evidence so clear, direct, weighty and convincing as to enable a fact finder (judge or jury) to come to a clear conviction, without hesitating, about the truth of the precise facts at issue.
- iv. It is NOT necessary that an individual be identified in a report of need for protective services to be designated as a perpetrator. Perpetrators “discovered through investigation” are to be treated the same as those “identified in a report of need for protective services.” A person identified as being associated with a need for protective services should not be designated as a perpetrator until an investigation has been conducted, his/her responsibility verified by clear and convincing evidence and the need for protective services substantiated.
- v. The process must ensure that all officially-designated perpetrators are notified that they have been officially designated as perpetrators and that they have certain appeal rights.
- vi. The process should not label individuals attempting to help an older person as perpetrators when such things as human frailty, lack of knowledge or uncontrollable events cause their helping efforts to fall short of the older person's needs.
- vii. Not every individual involved in circumstances that result in the creation of a need for protective services is necessarily a perpetrator. He/she may be a person who is more appropriate for agency assistance than for labeling as a perpetrator.
- viii. Notification: Since the inception of the Protective Services program under the mandate of the Older Adults Protective Services Act, perpetrator designation and notification have been issues responsible for significant concern and sometimes confusion. The law was intended to protect the due process rights of perpetrators but was not intended to label individuals as perpetrators simply because their attempts to help an older person fell short. The perpetrator label was intended to be given only to those individuals whom the AAA had determined should have action taken against them. Those, whom the AAA determined needed assistance, rather than sanctioning, were not intended to be labeled as perpetrators.
- ix. Once an individual has been officially designated as a substantiated perpetrator of ANEA, based on clear and

- convincing evidence, a summary of the allegations and the right to appeal must be given to the perpetrator in a timely fashion.
- x. The AAA must not disclose to the perpetrator the name of the reporter or any other prohibited information.
 - xi. The perpetrator must be given sufficient information to understand that the AAA has determined that he/she is a perpetrator of ANEA without providing details that would violate the confidentiality provisions of the Older Adults Protective Services Act.
 - xii. The existence of ongoing risk to an older adult in need of protective services may appropriately be used to determine the order and timing of case-specific activities.
 - xiii. Guidelines for Required Perpetrator Designation: (*APD 03-01-06 HCBS Manual, Chapter 3*)
 - 1. When one or more of the following four actions are taken **by the AAA** against an individual determined by clear and convincing evidence to be a perpetrator in a protective service case, then that individual must be afforded all rights provided by the OAPSA concerning perpetrator notification:
 - a. The individual is reported to law enforcement for the purpose of initiating action against him/her.
 - b. The individual is reported to a regulatory "agency" for the purpose of initiating action against him/her.
 - c. The individual is reported to a court for the purpose of initiating action against him/her.
 - d. Subsequent to substantiation of a case through investigation by the AAA, the individual is specifically labeled as a perpetrator of ANEA in the official protective services case record even though no referral has been made to law enforcement, court or a regulatory agency.
 - 2. If one or more of the actions listed above (a-d) are taken against an individual(s) who has not, by clear and convincing evidence, been designated as a perpetrator of abuse, then perpetrator notification is not required.
 - xiv. Notification Forms: Standard forms have not been developed for client assessments, service plans, informed consent, and refusal of protective services, emergency petitions, access petitions, or notification of clients or perpetrators. Use agency forms which comply with regulations currently in use at your agency.
- d. Involuntary intervention by emergency court order (6 Pa. Code § 15.71).
 - i. When there is clear and convincing evidence that, if protective services are not provided, the older adult to be protected is at

- imminent risk of death or serious physical harm, the agency may petition the court for an emergency order to provide the necessary services.
- ii. The person to be protected shall be an older adult in need of protective services.
 - iii. Only the agency, through its official representative, may bring a petition for involuntary intervention by emergency court order.
 - iv. Legal representation. When the agency petitions the court for emergency involuntary intervention, the agency shall make sure the older adult has the opportunity to be represented by counsel at all stages of the proceedings.
- e. Unsubstantiated: (6 Pa. Code § 15.43). Resolution of unsubstantiated reports.
- i. When, upon investigation of a report, it is determined that there is no need for protective services, the report shall be classified as unsubstantiated.
 - ii. A case opened by an unsubstantiated report shall be closed and information identifying the person who made the report and the alleged perpetrator of abuse, if applicable, shall be immediately deleted from the case record.
 - iii. For the purposes of substantiating a pattern of abuse, neglect, exploitation or abandonment, the name of the person reported to need protective services and other information relevant to the circumstances which led to the report may be maintained for 6 months in a separate locked file accessible only to limited authorized staff for review when it is necessary to establish that a previous report was made. At the end of 6 months, case records maintained under this subsection shall be destroyed unless additional reports lead to their being reopened.
 - iv. When an older adult who is the subject of an unsubstantiated report has needs for other services, the older adult shall be informed of the availability of services through the area agency on aging service management system or another appropriate community agency.

Summary

A Protective Service investigation is just that, an investigation. The goal of the investigation is to gather sufficient information to permit the protective service worker to evaluate and conclude whether or not the worker should substantiate the case. Substantiation is determined by the "preponderance of evidence." It must come, however, as the result of a thorough investigation. Medical professionals must be included in investigations of abuse and neglect. Various financial documents must be examined in cases of financial exploitation. In most cases, the protective service worker also must interview significant others to obtain a balanced perspective in the allegation. This is especially important if the protective service worker ultimately

classifies the case as unsubstantiated, since he/she will not be providing the older adult with additional services for protection.

Self-Evaluation Quiz

Answer the following questions.

1. The protective service worker is responsible for determining *beyond a reasonable doubt* if the allegations in the Report of Need are accurate or if there is any other reason why the older adult may fit the criteria of an older adult in need of protective services as defined in the Act.

T F

2. Identify the 3 important issues a PS worker must consider when conducting an investigation.

3. Identify the Timeframes for responding to a Report of Need

1. _____

2. _____

3. _____

4. A PS worker can interview people without first obtaining permission from the alleged victim of abuse.

T F

5. You can leave sections blank when you are completing the Investigation Report Form.

T F

6. The standard of evidence for perpetrator designation is “clear and convincing.”

T F

7. The process must ensure that all officially-designated perpetrators are notified that they have been officially designated as perpetrators and that they have certain appeal rights.

T F

8. An Abbreviated Investigation may occur when:

Review your answers with the answer key at the end of this section.

Transfer of Learning Activities

1. Review a completed case record for:
 - i. Physical Abuse
 - ii. Neglect
 - iii. Self-Neglect
 - iv. Abandonment
 - v. Financial Exploitation
 - vi. Sexual Abuse
2. As assigned by your supervisor, shadow an experienced PS worker throughout an entire protective services investigation. Review the process by which they document their work.
3. As assigned by your supervisor, request an experienced PS worker or your supervisor observe you conducting an entire protective services investigation.

References

Pennsylvania Code, Title 6, Chapter 15. *Protective Services for Older Adults.*

Pennsylvania Department of Aging, Aging Program Directive. *Protective Services Investigations*, 93-12-01.

Pennsylvania Department of Aging, Aging Program Directive. *Protective Services Investigations*, 93-24-02.

Pennsylvania Department of Aging, APD 03-01-06 Home and Community Based Services Procedures Manual. *Protective Services*, Chapter 3.

Resources

Pennsylvania Department of Aging Web-Site: www.aging.state.pa.us/

ANSWER KEY
Older Adult Protective Services Investigation

1. The protective service worker is responsible for determining *beyond a reasonable doubt* if the allegations in the Report of Need are accurate or if there is any other reason why the older adult may fit the criteria of an older adult in need of protective services as defined in the Act. **False.** *The protective service worker is responsible for determining by a preponderance of the evidence if the allegations in the Report of Need are accurate or if there is any other reason why the older adult may fit the criteria of an older adult in need of protective services as defined in the Act. If by a preponderance of the evidence the protective services worker's investigation does confirm the details of a report or determines that the subject of the report is an older adult in need of protective services, the report shall be classified as a substantiated report.*

2. Identify the 3 important issues a PS worker must consider when conducting an investigation.

The client has the right to self-determination. Although the older adult has the right to refuse to participate in an investigation, the protective service worker must complete the investigation in a manner that will satisfy the intent of the Older Adults Protective Services Act and provide sufficient information to determine the final classification.

The protective service worker is not required to obtain written or any other form of permission, to interview friends, relatives, neighbors, and anyone else pertinent to the investigation.

The PS workers must make every effort to conduct interviews will ALL necessary parties to complete a thorough investigation.

3. Identify the Timeframes for responding to a Report of Need
- *Immediately – RON classified as EMERGENCY.*
 - *As Soon As Possible – RON classified as PRIORITY.*
 - *In a Timely Manner but NEVER later than 72 Hours – RON classified as NONPRIORITY.*
4. A PS worker can interview people without first obtaining permission from the alleged victim of abuse. **True.** *A PS worker can effectively interview people without breaching rights/confidentiality by using appropriate questions.*
5. You can leave sections blank when you are completing the Investigation Report Form. **False.** *All sections of the Investigation Report Form must be completed. It is the document which the PS worker uses to record his/her findings during the investigation of a PS case. The information documented on the IRF will be used to*

identify problem(s) and support his/her conclusion of whether or not to substantiate the case.

6. The standard of evidence for perpetrator designation is “clear and convincing.”
True. *Clear and convincing is described as evidence as clear, direct, and weighty and convincing as to enable a jury to come to a clear conviction, without hesitating, about the truth of the precise facts at issue.*
7. The process must ensure that all officially-designated perpetrators are notified that they have been officially designated as perpetrators and that they have certain appeal rights. **True.**
8. An Abbreviated Investigation may occur when:
 - a. *The older adult states that the investigation should not continue or is uncooperative;*
 - b. *No collateral contacts have been made;*
 - c. *The PS worker is confident that there is no indication of abuse, neglect, exploitation or abandonment.*