

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State/Territory: Nebraska

ELIGIBILITY CONDITIONS AND REQUIREMENTS

Process for the Investigation of Allegations of Resident Neglect
and Abuse and Misappropriation of Resident Property

The State has in effect the following process for the receipt and timely review and investigation of allegations of neglect and abuse and misappropriation of resident property by a nurse aide or a resident in a nursing facility or by another individual used by the facility in providing services to such a resident. 1919(g)(1)(c)

When the Department of Health and Human Services (DHHS) receives an allegation of abuse, neglect, and/or mistreatment of a resident or misappropriation of resident property, the Division of Public Health Licensure Unit reviews the allegation. If it is determined that the allegation should be handled as a complaint, reasonable efforts are made to conduct the investigation within timeframes established by policies. A report of the finding is sent to the complainant when the survey results become public information. A report is sent to Adult Protective Services (APS) and if it meets the APS criteria for abuse, they complete an investigation. The Division of Developmental Disabilities conducts investigations for ICF/MR's and their Medicaid waivers.

The complaint investigation report must include or reference, at a minimum —

1. A clear, chronological account of what has occurred.
2. Interviews with --
 - a. The victim;
 - b. The alleged perpetrator;
 - c. Witnesses;
 - d. Other residents;
 - e. Persons outside the facility, if involved;
3. Copies of information relevant to the incident —
 - a. Any signed admission;
 - b. In-facility investigative reports and personnel records that indicate disciplinary actions;
 - c. Applicable DHHS reports and/or Long Term Care Ombudsman reports;
 - d. Resident records pertaining to the incident, any injury, or residual effect of the incident;
 - e. Incident reports pertaining to the incident;

TN #. MS-08-08

Supersedes

Approval Date Dec 10 2008

Effective Date Sept 01 2008

TN #. MS-92-23

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- f. Physician exams or hospitals records related to the incident;
 - g. Death certificates, coroner or autopsy reports, if available and applicable;
 - h. Police reports, if applicable; and
 - i. Pictures and observation of injury and illness resulting from the alleged incident; and
 - j. Lab and X-ray report.
4. Other information, including —
- a. Statements regarding the victim's and any resident witness's level of awareness and their temperament or demeanor;
 - b. If the incident involves conflict, any information regarding previous conflicts;
 - c. When applicable, a description of the room or scene of the incident;
 - d. A listing of all persons mentioned in the report;
 - e. Any documentation that demonstrates that the alleged neglect was caused by factors beyond the control of the perpetrator.
5. Identification of the perpetrator, including full name, last known address, social security number or registry identifier, and place of employment.

The Division of Public Health evaluates the report and determines if the evidence obtained is sufficient to provide a reason to believe that the perpetrator did neglect, abuse, or mistreat a resident, or misappropriate resident property while employed in any certified nursing facility.

If the perpetrator was convicted in a court of law of abuse, neglect, mistreatment, and/or misappropriation of resident property, a certified copy of the conviction is obtained from the court.

If the determination is made that there is reason to believe that a violation has occurred, the results of the complaint investigation are reviewed by DHHS Legal Services. If Legal Services determine that there is sufficient evidence to warrant adding the aide's name to the Nurse Aide Abuse Registry or Medication Aide Abuse Registry, a letter is sent to the aide at the last known address via certified mail within five calendar days of the decision. The letter must include the following information:

1. An allegation has been made against the aide and the substance of the allegation:

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2. An investigation has been conducted which substantiates the allegation;
3. The aide's name will be included in the Nurse Aide Abuse Registry or Medication Aide Abuse Registry;
4. The consequences of being listed in the registry; and
5. The aide's rights to appeal.

If a request for a hearing is received within 15 calendar days of the mailing of the notice, the hearing will be conducted according to DHHS regulations.

An individual name is put on the Nurse Aide Abuse Registry or the Medicaid Aide Abuse Registry only after —

1. The individual has not appealed the decision; or
2. The individual has appealed the decision and all appeals have been resolved in favor of DHHS.

When an individual whose name is in the Nurse Aide Abuse Registry or the Medication Aide Abuse Registry disputes the decision of DHHS, a brief statement of the dispute will be entered in the registry. If an inquiry is made to the registry, any information disclosed concerning the individual's name being listed on the registry must also include disclosure of any such dispute.

Individuals with Court or Department substantiated abuse are also listed on the DHHS Central Adult Abuse Registry.

TN #. MS-08-08

Supersedes

TN #. MS-92-23

Approval Date Dec 10 2008

Effective Date Sept 01 2008