



Policy Number:

9

Effective: May 1, 2008

Revised: April 19, 2010

Subject: Consumer Abuse/Neglect

POLICY:

It is the policy of Camden Co. Developmental Disability Resources (CCDDR) to be in compliance with 9 CSR 10 5.200 of the Missouri Code of State Regulations (CSR) as well as Dept. Operating Regular (DOR) 2.210 of the Department of Mental Health; it shall be the policy of Camden Co. Developmental Disability Resources that abuse or neglect of individuals served by this organization is strictly prohibited.

The staff, Board Members, and provider network that CCDDR works with are all cognizant of the fact that persons with developmental disabilities are vulnerable to abuse and neglect as well as being taken advantage of with regard to personal assets. CCDDR as an agency shall have no tolerance of abuse or neglect of persons served whatsoever, and shall take all necessary steps to adhere to all applicable state statutes and policies in this area. CCDDR shall train all new staff on all aspects of identifying and reporting suspected or observed abuse/neglect/exploitation, as well as methods of conducting inquiries into possible abuse, neglect, and/or financial exploitation when there is uncertainty as to Reasonable Suspicion.

DEFINITIONS:

Neglect:

Failure of an employee to provide reasonable or necessary services to maintain the physical and mental health of any consumer when that failure presents imminent danger or the health, safety or welfare of a consumer, or a substantial probability that death or physical injury would result.

Misuse of Funds/Property:

The misappropriation or conversion for any purpose of a consumer's funds or property by an employee or employees with or without the consent of the consumer, or the purchase of property or services from a consumer in which the purchase price substantially varies from the market value.

Verbal Abuse:

An employee making a threat of physical violence to a consumer, when such threats are made directly to a consumer or about a consumer in the presence of a consumer.

Medication Error:

A mistake in prescribing, dispensing, or administering medications. A medication error occurs if a consumer receives an incorrect drug, drug dose, dosage form, quantity, route, concentration, or rate of administration. This includes failing to administer the drug or administering the drug on an incorrect schedule. Levels of medication errors are:

- a. Minimal: medication error is one in which the consumer experiences no or minimal adverse consequences and receives no treatment or intervention other than monitoring or observation.
- b. Moderate: medication error is one in which the consumer experiences short-term reversible adverse consequences and receives treatment and or intervention in addition to monitoring or observation.
- c. Serious: medication error is one in which the consumer experiences life-threatening and/or permanent adverse consequences or results in hospitalization. Serious medication errors may be considered abuse or neglect and shall be subject to investigation by the Department of Mental Health.

Physical Abuse:

An employee purposefully beating, striking, wounding or injuring any consumer in any manner whatsoever; an employee mistreating or maltreating a consumer in a brutal or inhumane manner. Physical abuse includes handling a consumer with any more force than is reasonable for a consumer's proper control, treatment or management.

Sexual Abuse:

Any touching, directly or through clothing, of a consumer by an employee for sexual purpose or in a sexual manner.

This includes but is not limited to: kissing; touching the genitals, buttocks, or breasts; causing a consumer to touch the employee for sexual purposes; promoting or observing for sexual purpose any activity or performance involving consumers including any play, motion picture, photography, dance, or other visual or written representation; failing to intervene or attempting to stop inappropriate sexual activity or performance between consumers; encouraging inappropriate sexual activity or performance between consumers.

PROCEDURES:

I. Reporting Requirements

The Dept. of Mental Health Departmental Operating Regulation (DOR) 2.210 requires all CCDDR employees to immediately report any complaints they receive or make a complaint themselves if they know through direct or indirect means that abuse, neglect, misuse of funds/property has occurred or suspect that such has occurred. Employees who fail to report complaints of known or suspected incidents of abuse, neglect or misuse of funds/property or any other misconduct are subject to discipline, criminal prosecution or both.

Abuse, neglect, or misuse of funds/property may be discovered through:

- Service Monitoring
- Discovery of unknown/suspicious injuries during physician visits
- Discovery of unknown/suspicious injuries during visits from Community RN
- Misuse of funds discovered through Regional Office fiscal review
- Verbal or written complaints
- Observations in the community
- Reviewing documentation i.e. event reports, observation notes, staff logs, provider agency monthly reports, etc.

When the Service Coordinator receives or discovers any information suggesting abuse, neglect or misuse of funds/property, the Service Coordinator will do the following:

- Contact the provider and ensure the safety and well-being of the consumer(s). Ensuring the safety of the consumer may involve removing consumers from the facility and/or placing a monitor in the facility pending an inquiry or investigation, in consultation with Rolla Regional Office.
- Inform Director/Supervisor of situation.
- Ensure that a Division of DD Community Event Report Form (CERF) is thoroughly and accurately completed, contains a detailed account of any actions or statements made surrounding the allegation, and lists all potential witnesses. The CERF must be faxed to the Regional Office no later than the next business day.

II. Inquiries

In instances where it is uncertain as to if Reasonable Cause for an investigation exists, the CCDDR Director or Regional Office Director may request that the Service Coordinator perform an inquiry. An inquiry is designed to gather facts so the Regional Office can determine if an investigation is needed, and if Reasonable Cause exists for an investigation. All consumer injuries of unknown origin must be followed up with an inquiry. Inquiries must be completed within 10 working days.

A designated staff member (typically the Service Coordinator, Regional Center QA staff and/or SC Supervisor) will do the following:

- Will gather additional information if necessary and compare the information provided to the definitions of abuse, neglect, misuse of funds/property;
- Will ask the provider agency to secure any physical evidence pertinent to the complaint if available;
- Ensure the Department of Social Services, Children's Division (1-800-392-3738) is contacted if the consumer(s) is under the age of 18; OR
- Ensure the Department of Health and Senior Services, Elderly Abuse/Neglect Hotline (1-800-392-0210) is contacted if the consumer is over the age of 18 and the suspected abuse, neglect or misuse of funds/property occurred while the consumer was not receiving paid supports from DMH at the time the allegation occurred.

- If the information suggests abuse, neglect or misuse of funds/property may have occurred, immediately forward the report to designated regional center personnel for processing as an abuse, neglect, or misuse of funds/property complaint;

All CCDDR Service Coordination staff shall receive training in conducting inquiries.

Following completion of the inquiry process, if the allegation(s) concern physical abuse, sexual abuse or misuse of funds/property, the designated staff should also do the following:

A. Physical Abuse:

If an injury occurred, ensure:

- Pictures are taken immediately;
- A physical examination is performed by a qualified medical staff as soon as practical;
- If Service Coordinator discovered abuse during consumer visit, Service Coordinator is to stay on site to ensure consumer(s) safety and contact his/her supervisor immediately;
- Local law enforcement is contacted.

B. Sexual Abuse:

If there is reasonable cause to believe penetration has occurred, ensure:

- A physical examination is conducted immediately;
- The physical examination should be performed by a medical professional at a facility qualified in the “rape kit” examination;
- Ensure local law enforcement is contacted.

C. Misuse Of Funds/Property:

- Ensure local law enforcement is contacted.

If the Service Coordinator suspects or has observed abuse/neglect during a Service Monitoring visit or any other visit to the consumer, s/he shall stay on site and ensure the safety of the consumer(s). Ensuring the safety of the consumer may involve removing consumers from the facility and/or placing a monitor in the facility, in consultation with Rolla Regional Office. The Service Coordinator will also contact his/her supervisor, and contact law enforcement officials, if necessary.

III. Investigation/Disposition Process

The Regional Office makes the determination as to if an investigation shall be initiated. If so, the Regional Office completes an Investigation Request form and this along with the CERF form are electronically submitted to the Department of Mental Health Investigative Unit for review to determine that all criteria for investigating the complaint are met. The DMH Investigations Unit completes the Request form, assigns an investigator and determines the timeframe for beginning and ending the investigation.

The investigator reviews the circumstances surrounding the allegation and interviews all persons having knowledge relative to the allegation. Once interviews are completed, the investigator writes the investigative report and forwards it to the Investigative Unit for review. Following internal review, the final report and a list of recommendations with regard to the outcome of the investigation is forwarded to the Regional Office Director, who is the determiner for disposition of the complaint.

The Regional Office Director reviews the investigative report and recommendations then determines if sufficient information is present within the investigative report to make a preliminary finding. If the Director determines that additional information is needed prior to making a finding, the Director completes the Determiner Response form to seek additional information. If the information is sufficient, the Director makes a preliminary determination to substantiate or not substantiate the allegation and notifies the alleged perpetrator of this preliminary finding.

If a substantiation finding is made, the alleged perpetrator may exercise his or her due process right by meeting with the Regional Office Director or providing additional information in writing to the Director for review and further consideration. The Regional Office Director considers any additional information pertinent to the allegation and subsequent investigation and makes a final determination to substantiate or not substantiate the allegation.

If the alleged perpetrator disagrees with the final decision of the Regional Office Director, that person may appeal the decision to the Director of the Department of Mental Health. The Office of the General Counsel for the department will assign a hearings officer to review the case, set a hearing date and hear the appeal from the alleged perpetrator. The hearings officer will consider all relevant testimony presented at the hearing and render the final decision of substantiation or no substantiation for the department. The Final Determination form is completed once all due process and administrative hearing rights have been exhausted and the final decision rendered.

REFERENCES:

- DOR 2.210-Placement Abuse and Neglect Definitions and Procedures
- DOR 4.270-Reporting Unusual Events
- Div. Dir. 3.010-Inquiry into injuries of Unknown Origin
- Div. Dir. 3.050-Complaint Response Process
- Div. Dir. 4.030-Supplemental A/N Protocol for Children
- Div. Dir. 4.070-Event Reporting Process
- 9 CSR 10-5.200
- Sections 36.390; 630.167;630.168;630.170 RSMo
- CARF Standards Manual, Section 1D