

Critical Incidents - Review, Investigation & Reporting

MI CHOICE WAIVER PROGRAM
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Brief context

- Assuring Health and Welfare for individuals receiving 1915c waivers is a **key** regulatory requirement
- Health and Welfare covers a number of areas, including:
 - Protection from harm when serious incidents occur (e.g., abuse, neglect, exploitation and other serious incidents as defined by the state)
 - Protections for the use of restraints, seclusion and other restrictive interventions
 - Safeguards for medication management and administration

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Brief context

Public Act 519 of 1982, which was incorporated into Social Welfare Act - Act 280 of 1939, Section 400.11

- Defines terms
- Identifies mandatory reporters

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Social Welfare Act - Act 280 of 1939
Section 400.11

Adult in need of protective services - means a vulnerable person not less than 18 years of age who is suspected of being or believed to be abused, neglected, or exploited.

Vulnerable - means a condition in which an adult is unable to protect himself or herself from abuse, neglect, or exploitation because of a mental or physical impairment or because of advanced age.

Protective services - includes, but is not limited to, remedial, social, legal, health, mental health, and referral services provided in response to a report of alleged harm or threatened harm because of abuse, neglect, or exploitation.

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Social Welfare Act - Act 280 of 1939
Section 400.11

Abuse - means harm or threatened harm to an adult's health or welfare caused by another person. Abuse includes, but is not limited to, nonaccidental physical or mental injury, sexual abuse, or maltreatment.

Exploitation – means an action that involves the misuse of an adult's funds, property, or personal dignity by another person.

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Social Welfare Act - Act 280 of 1939
Section 400.11

Neglect - means harm to an adult's health or welfare caused by the inability of the adult to respond to a harmful situation or by the conduct of a person who assumes responsibility for a significant aspect of the adult's health or welfare. Neglect includes the failure to provide adequate food, clothing, shelter, or medical care.

A person shall not be considered to be abused, neglected, or in need of emergency or protective services for the sole reason that the person is receiving or relying upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, and this act shall not require any medical care or treatment in contravention of the stated or implied objection of that person.

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Critical Incident Definition

A “critical incident” is any actual, alleged or suspected event or situation that creates a significant or potential risk of substantial or serious harm to the physical or mental health, safety or well-being of a waiver participant, including but not limited to abuse, neglect, and exploitation.

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Types of Critical Incidents tracked in the MI Choice program

- Exploitation
- Illegal Activity in the Home
- Neglect
- Physical Abuse
- Provider No Show
- Sexual Abuse
- Unexpected/Unexplained Death
- Theft
- Verbal Abuse
- Worker Drugs/Alcohol
- Medication error
- Suicide attempts
- Use of Restraints/Restrictive Interventions/Seclusion
- Other

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Critical Incident Definitions

Exploitation - an action that involves the misuse of an adult's funds, property, or personal dignity by another person. (*Social Welfare Act - Act 280 of 1939, 400.11*)

Illegal activity in the home with potential to cause a serious or major negative event – Any illegal activity in the home that puts the participant or the workers coming into the home at risk.

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Critical Incident Definitions

Neglect - harm to an adult's health or welfare caused by the inability of the adult to respond to a harmful situation or by the conduct of a person who assumes responsibility for a significant aspect of the adult's health or welfare. Neglect includes the failure to provide adequate food, clothing, shelter, or medical care. (*Social Welfare Act - Act 280 of 1939, 400.11*)

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Critical Incident Definitions

Physical abuse - The use of unreasonable force on a participant with or without apparent harm.

Provider no shows - Instances when a provider is scheduled to be at participant home but does not come and back-up service plan is either not put into effect or fails to get an individual to the participant's home in a timely manner. This becomes a critical incident when the participant is bed bound or in critical need and is dependent on others.

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Critical Incident Definitions

Sexual abuse –

- (i) Criminal sexual conduct as defined by sections 520b to 520e of 1931 PA 318, MCL 750.520b to MCL 750.520e involving an employee, volunteer, or agent of a provider and a recipient.
- (ii) Any sexual contact or sexual penetration involving an employee, volunteer, or agent of a department operated hospital or center, a facility licensed by the department under section 137 of the act or an adult foster care facility and a recipient.
- (iii) Any sexual contact or sexual penetration involving an employee, volunteer, or agent of a provider and a recipient for whom the employee, volunteer, or agent provides direct services.

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Critical Incident Definitions

Unexpected/Unexplained Death- All deaths require a preliminary review of all beneficiary deaths. Critical Incidents and investigations should focus on deaths that are determined to be “unusual, suspicious, sudden and unexpected, or potentially preventable, including all deaths alleged or suspected to be associated with neglect, abuse, or criminal acts.”

Theft - A person intentionally and fraudulently takes personal property of another without permission or consent and with the intent to convert it to the taker's use (including potential sale).

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Critical Incident Definitions

Verbal abuse - Intimidation or cruel punishment that causes or is likely to cause mental anguish or emotional harm.

Worker consuming drugs or alcohol on the job – Use of any illegal drugs or alcohol on the job, or any medications that would affect the abilities of the worker to do his or her job.

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Critical Incident Definitions

Medication errors - Wrong medication, wrong dosage, double dosage, or missed dosage which resulted in death or loss of limb or function or the risk thereof.

Suicide attempt - The intentional attempt to take one's own life. A suicide attempt is limited to the actual occurrence of an act and does not include verbal suicidal threats by a person receiving services

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Critical Incident Definitions

Use of restraints or seclusion

Restraints may be:

- Personal - the application of pressure, except physical guidance or prompting of brief duration, that restricts the free movement of part or all of an individual's body.
- Mechanical - the use of a device that restricts the free movement of part or all of an individual's body. Such a device does not include one used to provide support for functional body position or proper balance, such as a wheelchair belt or one used for medical treatment, such as a helmet used to prevent injury during a seizure.
- Chemical - the use of a chemical, including a pharmaceutical, to control an individual's activity and which is not a standard treatment for the individual's medical or psychiatric condition.

Seclusion is involuntary confinement in a room that the person is physically prevented from leaving. This also includes isolation (forced separation or failure to include the person in the social surroundings of the setting or community).

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Critical Incident Definitions

Other - Event that creates a significant or potential risk of substantial or serious harm to the physical or mental health, safety or well-being of a waiver participant not already listed (fire, drive by shooting, car accident, etc.)

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Timeframes for reporting

Waiver agencies must require contracted providers to report unexpected deaths to the waiver agency within 2 business days of the unexpected death. For all other Critical Incidents, contracted providers must report to the waiver agency within 30 calendar days of the Critical Incident.

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Mandatory Reporters

- Mandatory Reporters are required to report abuse, neglect, or exploitation of adult
- A person who is employed, licensed, registered, or certified to provide health care, educational, social welfare, mental health, or other human services; an employee of an agency licensed to provide health care, educational, social welfare, mental health, or other human services; a law enforcement officer; or an employee of the office of the county medical examiner who suspects or has reasonable cause to believe that an adult has been abused, neglected, or exploited shall make immediately, by telephone or otherwise, an oral report to the county department of social services of the county in which the abuse, neglect, or exploitation is suspected of having or believed to have occurred.
(*Social Welfare Act - Act 280 of 1939, 400.11*)

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Critical Incidents that must be reported to other entities (in addition to MDHHS)

- Exploitation – Required to report to APS
- Neglect – Required to report to APS
- Verbal abuse – Required to report to APS
- Physical abuse – Required to report to APS
- Sexual abuse – Required to report to APS
- Illegal activity in the home with potential to cause a serious or major negative event - local authorities/police
- Suspicious or Unexpected Death – Death should be reported to law enforcement if it is a suspicious death possibly linked to abuse or neglect.

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APS Contact Information

Centralized Intake for Abuse and Neglect (CPS/APS)

- Phone: (855) 444-3911
- Email: DHS-CPS-CIGroup@michigan.gov
- Fax: (616) 977-1154 or (616) 977-1158
- 5321 28th St. Ct. SE, Grand Rapids, MI 49546

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What needs to be reported to MDHHS or APS

Participant information

Type of incident

Provider/vendor information (if vendor involved)

Actions taken to investigate and resolve incident. Should include:

- Detailed description of the incident (extent of harm)
- Individuals/Staff involved
- Referral to other entities as required (APS, police, etc)
- Completion of safety actions (pending review/investigation)
- Review/investigation findings and recommendations/required actions
- Follow-up on recommendations/required actions completed

Steps taken to prevent further incidents

Status/resolution of incident

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