

STATE OF WISCONSIN
Department of Health and Family Services
Division of Long Term Care

DLTC Memo Series 2008-01

Date: January 11, 2008

Index Title: Elder Adults/Adults-at-Risk County
Investigation Process when the
County has a Conflict of Interest.

To: Listserv

For: Aging and Disability Resource Centers
Area Administrators / Human Services Area Coordinators
Area Agencies on Aging Executive Director
Board on Aging and Long Term Care
County COP Coordinators
County Corporation Counsels
County DD Services Coordinators
County Departments of Community Programs Directors
County Departments of Developmental Disabilities Services Directors
County Departments of Human Services Directors
County Departments of Social Services Directors
County Long Term Care Coordinators
County Waiver Coordinators
County/Tribal Aging Unit Directors
Developmental Disabilities Coordinators
Developmental Disability Services Coordinators
DHFS Division Administrators
DLTC Administration
DLTC Bureau Directors
DLTC Facility Directors
DMHSAS Administrator
DMHSAS Bureau Directors
DMHSAS Institute Directors
Family Care CMOs
Human Services Area Coordinators, DES
Lead Adult-at-Risk Agency Contacts
Lead Elder Adult-at-Risk Agency Contacts
Long Term Support Coordinators
Mental Health Institutes
Substance Abuse Coordinators
Tribal Chairpersons

From: Sinikka Santala
Administrator



Subject: Elder Adults/Adults-at-Risk County Investigation Process when the County has a Conflict of Interest.

Document Summary

This memo explains the process for assigning an investigation to another county's elder adults/adults-at-risk agency if there is a potential conflict of interest. The memo also provides a

form for notifying the Department of Health and Family Services. This memo only deals with the response and investigation process. It does not address the provision of services by the responsible county, generally the county that received the report.

Wisconsin State Statutes § 46.90(5) and § 55.043(1r) define the response and investigation duties of county elder adults/adults-at-risk agencies.

Wisconsin State Statute §55.043(1r)(a)2. and §46.90(5)(a)2 require a county to notify the Department when “the county department determines that the relationship between the adult-at-risk agency and the agency under contract with the county department would not allow for an unbiased response.”

This memo explains the process for assigning an investigation to another county’s elder adults/adults-at-risk agency if there is a potential conflict of interest based on:

- an agent or employee of the county elder adults/adults-at-risk agency is the subject (either the elder adult/adult at risk or the alleged abuser) of the report, or
- the county agency or a county contracted agency determines that a relationship between the county agency and the contract agency would not allow for an unbiased response.

This memo also provides a form for notifying the Department.

Statutory Reference

New statutory requirements covering reports of abuse, neglect and financial exploitation of elder adults/adults at risk became effective on December 1, 2006.

WI State Statute §46.90(5)(a)2 states:

“2. If an agent or employee of an elder-adult-at-risk agency required to respond under this subsection is the subject of a report, or if the elder-adult-at-risk agency or an agency under contract with the county department determines that the relationship between the elder-adult-at-risk agency and the agency under contract with the county department would not allow for an unbiased response, the elder-adult-at-risk agency shall, after taking any action necessary to protect the elder adult at risk, notify the department. Upon receipt of the notice, the department or a county department under s. 46.215, 46.22, 51.42, or 51.437 designated by the department shall conduct an independent investigation. The powers and duties of a county department making an independent investigation are those given to an elder-adult-at-risk agency under pars. (b) to (f) and sub. (6).”

Wisconsin State Statute §55.043(1r)(a)2 states:

“2. If an agent or employee of an adult-at-risk agency required to refer under this subsection is the subject of a report, or if the adult-at-risk agency or an agency under contract with the county department determines that the relationship between the adult-at-risk agency and the agency under contract with the county department would not allow for an unbiased response, the adult-at-risk agency shall, after taking any action necessary to protect the adult at risk, notify the department. Upon receipt of the notice, the department or a county department under s. 46.215, 46.22, 51.42, or 51.437 designated by the department shall conduct an independent investigation. The powers and duties of a county department making the independent investigation are those given to an adult-at-risk agency under pars. (b) to (g) [pars. (b) to (d)] and sub. (6).”

Process

In this memo, the county that received the report and has determined that a relationship exists that would not allow for an unbiased response is called the “**County of Origin.**” The county that agrees to take over the investigation is called the “**Transfer County.**”

In this memo, the term **adults at risk** refers to all adults at risk, including elder adults at risk. Individuals under 18 years of age are not covered under this document.

Step 1: Protection of the Adult at Risk

Upon receiving a report of abuse, neglect, financial exploitation and self-neglect, a county of origin elder adults/adults-at-risk agency is responsible for taking immediate action to protect the adult at risk. The county receiving the report is responsible for protecting the adult at risk in any emergency situation.

Step 2: Determination of Conflict of Interest

The county of origin elder adults/adults-at-risk agency is responsible for determining the need for transferring an investigation based on the judgment that another county's elder adults/adults-at-risk agency would be better able to conduct an impartial investigation.

Examples of cases where the county of origin **may** have an actual or perceived conflict of interest:

- 1) the adult at risk or the alleged abuser is a relative of the county caseworker or other county staff or elected official who is in a position of influence.
- 2) county caseworker or other county staff or elected official is the alleged abuser.
- 3) county staff has a controversial history or personal relationship with one of the individuals involved in the investigation that may affect their ability to remain objective throughout the investigative process.

Step 3: Transfer of Investigation

Although counties are not required to create adults-at-risk case transfer agreements with neighboring counties, such arrangements will expedite the investigation process when a conflict arises. In order to expedite transfer of adults-at-risk investigations, it would benefit counties to develop agreements with elder adults/adults-at-risk agencies in surrounding counties. Counties would agree to assist in adults-at-risk investigations when there is a conflict of interest. Agreements may be worked out with one or more counties.

Step 4: Notification of Department of Health and Family Services

Once a county of origin determines that an alleged abuse investigation should be transferred, the elder adults/adults-at-risk agency must notify the Department using the attached form.

County elder adults/adults-at-risk agencies may want to develop an internal process relating to staff authorized to file this form with the state. Cases will be identified to the department using the date. If there are multiple cases on a specific date, each date will be identified with the same date followed by a number 1 through 9. The form should be e-mailed to the Department at StopAbuse@dhs.state.wi.us or faxed to 608-267-3203 (Att: elder adults/adults-at-risk staff).

Step 5: Designation by the Department of Health and Family Services

Upon receipt of the Notification and Transfer form, the Department will review, sign and return the form to the county of origin and the transfer county. A copy will also be sent to the appropriate DHFS regional office(s).

Step 6: Transfer County Performs Investigation

Once a transfer county is designated (with the completed form from the Department), the transfer county possesses all the investigative duties and powers held by the county of origin before the transfer, including [see §46.90(5)(b) and §55.043(1r)(b)] but not limited to:

1. A visit to the residence of the elder adult/adult at risk.
2. Observation of the adult at risk.

3. An interview with the adult at risk.
4. An interview with the guardian or agent under an activated power of attorney for health care.
5. A review of the treatment and patient health care records of the elder adult/adult at risk.
6. A review of any financial records of the elder adult/adult at risk.

Step 7: Transfer County Report to County of Origin

After completing the investigation, the transfer county will report back to the county of origin. The report may include (but is not limited to) recommendations for:

- services for the adult at risk.
- continued investigation
- referral to law enforcement
- guardianship, protective services or placement.

The county of origin is responsible for coordinating any follow-up as a result of the findings and for the final web-based report (WITS system) to the Department.

If you have any program content or policy questions due to the statutory changes please send the query to the following email address: StopAbuse@dhfs.state.wi.us.

CENTRAL OFFICE CONTACT: Kay Lund or Jane Raymond
Division of Long Term Care -- Bureau of Aging and Disability Resources
1 W. Wilson Street, Room 450, Madison, WI 53702
(608) 261-5990 (Kay) (608) 266-2568 (Jane)
email: lundkam@dfhs.state.wi.us, raymoja@dhfs.state.wi.us

MEMO WEB SITE: http://dhfs.wisconsin.gov/dsl_info/

**ELDER ADULTS/ADULTS-AT-RISK AGENCY CONFLICT OF INTEREST
NOTIFICATION FORM AND TRANSFER OF INVESTIGATION POWERS**

The county elder adults/adults-at-risk agency has determined that a relationship exists that would not allow for an unbiased response to a reported incident of abuse, neglect, or exploitation of an elder adults/adults-at-risk (pursuant to Wisconsin Statutes §46.90(5) and §55.043(1r)).

Date (Case Identifier): _____ - _____ <div style="text-align: right; margin-left: 150px;"> (1 to 9) for this date* </div>	
_____ <i>County of Origin</i>	County has already acted on issues of immediate safety to protect the Elder Adult/Adult at Risk.
_____ <i>County of Origin</i>	County has asked that the duties and powers of an elder adults/adults-at-risk investigation be transferred in order to complete an unbiased and objective investigation.
Transfer this investigation to _____ County <div style="text-align: center; margin-left: 100px;"><i>Transfer County</i></div>	
County Contact Information:	
<u>County of Origin</u>	<u>Transfer County</u>
Contact Name: _____	Contact Name: _____
E-Mail: _____	E-Mail: _____
Phone: _____	Phone: _____
Fax: _____	Fax: _____
E-mail forms to StopAbuse@dhfs.state.wi.us or Fax to 608-267-3203.	
DHFS Response <i>(signed and returned to county of origin and to transfer county)</i>	
_____ County	is designated by DHFS, in cooperation with the county of origin, to perform this elder adults/adults-at-risk investigation.
_____ <i>Signature and Title</i>	_____ <i>Date Signed</i>
<i>Upon receipt of this completed notice, the county department under s. 46.215, 46.22, 51.42, or 51.437 (relating to county duties and powers) designated by the department shall conduct an independent investigation.</i>	

If you need help finding another county to conduct the investigation, contact DHFS Elder Adults/Adults-at-Risk staff at StopAbuse@dhfs.state.wi.us or contact:

Jane Raymond
(608) 266-2568

Kay Lund
(608) 261-5990

* in the event that there is more than one request to DHFS for that date.