WISCONSIN DEPARTMENT of HEALTH SERVICES

Division of Public Health

# APS and Key Partners Role and Response to Reports of Abuse, Neglect, and Financial Exploitation in Residential Care Facilities

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# Introduction

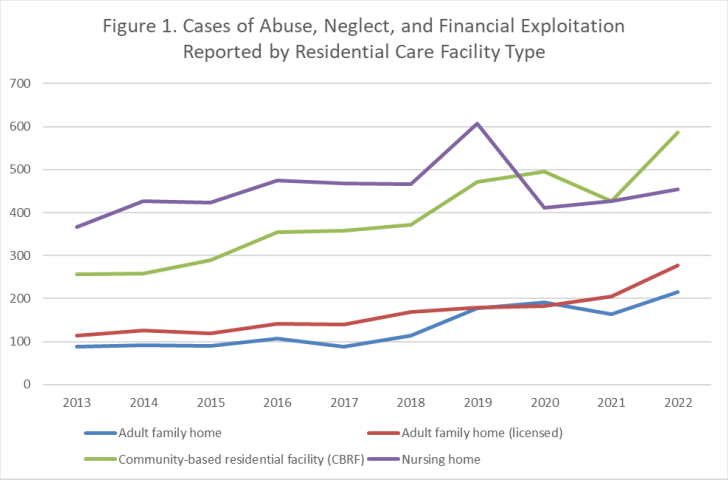
Adult protective services (APS) is a social services program established to respond to concerns of adults and/or elder adults at risk of or currently experiencing abuse, neglect, or financial exploitation. The goal of APS interventions is to work with adults and elder adults at risk to determine the need for protective services that could promote their ability to be maintained in the least restrictive setting to meet their needs and preferences. Wisconsin's APS system is county based. In this model, referrals are received and responded to by the county APS unit. Concerns of abuse, neglect, and financial exploitation are complex and require a multi-disciplinary response to address the various safety and service concerns of the residents and the facility.

## Purpose of document

This document is intended to outline the role of adult protective services in responding to facility concerns. The document seeks to identify key partners and resources for APS staff in their response to reports of abuse and/or neglect in residential care facilities. This best practice guide is intended to provide county APS units with a process for how to approach cases in residential care facilities, in collaboration with the Division of Quality Assurance (DQA), that regulates licensed facilities as well as other partner agencies. This guidance will assist in promoting consistent practice and response statewide.

## Shift in practice

It is important to acknowledge that the current practice varies across the state and there has been a shift in practice over time regarding APS's response to abuse and neglect cases in residential care facilities. Concerns of abuse and neglect in facilities was previously considered a responsibility under the purview of DQA. As illustrated by Figure 1 below, cases of abuse and neglect in residential care facilities reported to APS units have steadily increased over the last ten years. As cases have increased, the necessity for APS involvement in facility-based investigations has also increased. APS plays a unique role in facility investigations through ensuring the safety and welfare of adults and elders at risk in residential care facilities. APS' statutorily defined roles and responsibilities related to protective services and protective placement are described in Wis. Stat. ch. 55 and § 46.90. It is also evident that as cases increase, additional guidance and resources are needed to meet the growing demands and strain on the county-led APS network in how to navigate these complex investigations. Facility response requires a multi-disciplinary response to address the variety of issues and safety needs of residents and facilities. These investigations are different than traditional APS response to community concerns as there are many entities involved working within different roles and objectives.



## APS role in responding to facility concerns

Wisconsin statutes require APS to receive and respond to reports of abuse, neglect, and financial exploitation of adults and elder adults at risk. APS should respond to referrals of adults in community dwellings and/or residential placements if they are believed to be at risk and/or experiencing abuse, neglect, or financial exploitation. APS receives and responds to concerns about adults and elder adults at risk in their county. Wisconsin Stat. § 46.90(5)(a)1 specifically states that "upon receiving a report of alleged abuse, financial exploitation, neglect, or self-neglect of an elder adult at risk, the elder-adult-at-risk agency shall either respond to the report including, if necessary, by investigating, or refer the report to another agency for investigation." The statute further requires that APS is to notify DQA for investigation within 24 hours after the report is received if the subject of the APS report is a resident of a licensed or certified facility.

DQA investigates reports of abuse and neglect that impact care in residential care facilities as a regulatory authority, a role different than the client-centered role of APS. Concerns regarding the quality of care and issues with providers can be reported directly to DQA. The focus of DQA is to survey and investigate facility's compliance with laws and regulations. DQA can provide sanctions on licensed facilities and staff but does not have the authority to access services for residents or move residents to a new location in an emergent situation.

After making a referral to DQA, local APS units continue to have investigative roles and responsibilities in these cases. The statute requires APS to respond to reports of abuse and neglect within 24 hours to ensure the safety of the alleged victim. However, this excludes Saturdays, Sundays, and legal holidays. For emergency issues of health and safety related to an APS referral, law enforcement should be contacted for an immediate response.

**The primary goal of the local APS unit is to respond to reports of abuse, neglect, and financial exploitation to ensure the immediate health and safety of residents that are subject of the report of abuse or neglect. APS has a responsibility to respond whether the adult or elder at risk resides in an apartment, adult family home (AFH), community-based residential facility (CBRF), or nursing home (NH). The county where the client is located should be the agency that receives the report and initiates the response.**

# APS Case Flow in Residential Care Facilities

The following are recommendations on the steps county adult protective services staff should consider in responding to a report of abuse, neglect, and/or financial exploitation received regarding an adult or elder adult at risk residing in a facility setting.

## APS initial response

APS units should respond to APS referrals of abuse and/or neglect of an adult or elder adult at risk within 24 hours, excluding weekends and holidays.

- Prepare for the visit.
  - If the referral contains an emergent concern for health and safety, contact emergency personnel such as law enforcement or paramedics.
  - Review agency records for any history or collateral information regarding the adult or elder adult at risk referred.

- Review ForwardHealth records to determine if the client is enrolled in a Medicaid long-term care program, such as a managed care organization (MCO) or self-directed Medicaid program (IRIS).
- Determine need for additional staff to support in case of multiple client reports.
- Search for facility contact information, including whether the facility is licensed, in the DQA Provider Search.

- Go to the facility unannounced and determine need for law enforcement involvement. Some possible examples when law enforcement may be necessary include:
  - The initial report indicated that a possible crime occurred, such as battery, sexual assault, theft, or misuse of the resident's medications.
  - APS staff expect resistance when entering the facility.
  - The abusive individual is present at the facility and preventing APS from meeting with the adult or elder adult at risk in private.

- Assess the adult or elder at risk who is the subject of the referral and other residents of concern, as appropriate.
  - Interview the adult or elder at risk in a private room or space.
  - Evaluate and determine the adult's or elder at risk's care needs and the level of risk. APS staff should review facility medical charts to understand diagnoses and daily care needs. Wisconsin Stat. § 46.90(5)(b)5. allows for APS staff to review medical records as part of an investigation.
  - Determine whether the adult or elder at risk has a substitute decision maker, for example, guardianship (and/or protective placement order), activated power of attorney (POA) for health care, POA for finance, or representative payee. If applicable, contact the substitute decision maker to discuss details regarding the allegation, obtain pertinent information on background and care needs, and discuss development of an immediate safety plan.
  - Determine whether the adult or elder at risk is placed by an MCO or a protective placement order.
    - The facility should have information on the resident's legal orders and/or information on whether an MCO is involved. Forward Health Portal can also provide information regarding a resident's enrollment status.
    - While the county that received the referral is responsible for completing the investigation and reporting data into Wisconsin Reporting for Adult Protective Services (WRAPS), it is important to know if the adult or elder at risk has a different county of legal residence. If the adult or elder at risk is from another county, the responding APS staff will want to involve that county in the coordination of care and for any follow-up issues at the conclusion of the investigation.
    - Obtain key information and documents necessary for recording evidence of the investigation. The facility should give APS access to all records pertaining to residents. Wisconsin Statute Reference regarding APS review of medical records
    - Include details about the staff working with the adult or elder at risk and issues of concern, including:
      - Staff names and roles.
      - Staff work schedules.
      - Unit supervisor's or manager's name and their contact information.
    - Consider including copies of documents that describe the adult's or elder at risk's care needs such as:
      - Daily logs for behaviors and/or incidents.
      - Admission notes.

        - ◊ Care plans.
        - ◊ Updated history and physicals.
        - ◊ Medication lists.
        - ◊ Specialized services consults and notes.
        - ◊ Behavioral health plans.
    - ♦ Document any information you observe in the facility that may place residents at risk and forward to DQA or other regulatory agency for follow up.

- Based on the outcome of the assessment, develop an immediate safety plan to meet the adult's or elder at risk's care and safety needs.
    - o If the adult or elder at risk expressed being harmed by an act of abuse or neglect, work with the adult at risk and/or their decision maker to ensure that they receive a prompt medical assessment based on the type of abuse. A person who has been alleged to experience sexual abuse would also benefit from having a sexual assault nurse examiner (SANE) participate in their medical assessment. SANE exams can be helpful in ensuring a thorough assessment and response to sexual abuse. APS staff should work with local hospital systems to determine the availability of these services within their community.
    - o If there is currently a developed safety plan, verify the safety plan with the adult at risk and/or their decision maker. If the resident is a member of a Medicaid long-term care program such as Family Care or IRIS, the immediate safety plan should be shared for the MCO to follow up and respond with additional services and long-term safety planning.
    - o If an adult or elder at risk is assessed to be at imminent risk of harm, the local APS unit may need to coordinate alternate placement. Imminent risk is a high risk of harm occurring without intervention. Some examples include severe malnutrition, dehydration, severely infected bed sores, or apparent delirium likely due to severe infection.
        - ♦ If APS staff suspects impaired decisional ability of the adult or elder at risk and they appear in imminent danger due to abuse and/or neglect at the facility, an emergency protective placement or an emergency transfer at an alternate facility may be appropriate. (Protective placement is discussed under Wis. Stat. § 55.135.) Always proceed with pursuing the least restrictive intervention that ensures the resident's safety.
        - ♦ If the adult or elder at risk is competent (that is, their own decision maker), the APS worker should gain their consent to seek the necessary medical care (for example, medical provider appointment, urgent care, or hospital for emergency care). The adult or elder at risk has the right to live at risk of harm providing that they can make that informed decision.

## Investigation and coordination of care

After the initial contact, APS should coordinate with other APS partners to remediate risk.

- The county APS unit should follow up with the adult or elder at risk and/or the decision maker after the immediate safety plan to ensure that any additional services and/or placement planned is pursued.
- The county APS unit may have to pursue court action if the adult or elder at risk is assessed to be incapacitated and would be at risk of serious harm due to their apparent inability to make decisions for their own health and safety. In these situations, APS would assist with coordinating a competency evaluation to determine if criteria for legal incompetence is met. If so, they may proceed with a petition

for a guardianship and/or protective placement, or file for the court to review and replace an existing power of attorney that has been deficient in their responsibilities.

- For members enrolled in a Medicaid long-term care program, the county APS unit should also notify and collaborate with the MCO or IRIS consultant agency (ICA).
  - MCOs and ICAs are responsible for providing placement and services for their members. Work with the MCO or ICA to ensure a safety plan and secure immediate placement of the adult or elder at risk if needed to ensure safety.
  - The MCO can provide additional information for follow up and coordination of care for their members including determination of county of responsibility.
  - For members placed in non-licensed placements, the MCO or ICA provides the certification of the facility. Concerns or issues regarding these facilities should be discussed with the MCO or ICA staff as well as the MCO or IRIS Quality Services Oversight Team from the Department of Health Services (DHS) Division of Medicaid Services. Area Administration can assist with determining the correct contact for each MCO's Member Care Quality Oversight Team.
- The local APS unit should follow up with DQA to report and/or provide additional details regarding facility concerns identified in the APS initial onsite assessment of the adult or elder at risk.
  - Determine the facility type and the licensing status of the facility for following up and reporting on facility concerns. There are several sections within DQA, including: Bureau of Nursing Home Residential Care Services, Bureau of Assisted Living, and Office of Caregiver Quality.
    - If licensing status is unknown, consider searching for the facility or provider type on the DQA website. DQA provides listings of statewide licensed facilities and providers on the DQA Provider Search.
    - DQA does not regulate 1–2 bed adult family homes. In these cases, notify the certifying agency, either the MCO, ICA, or the county of placement, with specific facility concerns.
  - Abuse or neglect concerns by licensed providers and overall care and quality concerns should be referred to DQA at 800-642-6552 or by reporting through their website: DQA Misconduct Report or Complaint about Care or Treatment.
  - DQA provides additional resources regarding reporting and hosts a misconduct registry at the Office of Caregiver Quality Caregiver Misconduct Registry.
- If the local APS unit believes a crime has been committed, the case should be referred to law enforcement in the facility's jurisdiction for criminal investigation. If the report is an egregious incident such as an assault and or resident death, which will likely lead to resident trauma, consider coordinating counseling and or pastoral care for the victim as well as for other affected residents to mitigate trauma from the incident.
- If the local APS unit is concerned about violations of resident's rights, a referral to the Ombudsman Program should be pursued. To make an Ombudsman referral contact the Board on Aging and Long Term Care (BOALTC) at 800-815-0015.
- If the adult or elder adult at risk is a Tribal member, local APS may notify the Tribal nation for additional coordination with services and support. This referral should be made with permission from the adult or elder at risk and their legal decision maker, if appropriate.

## APS case closure

The goal of APS intervention is to reduce or eliminate the risk of abuse, neglect, or financial exploitation of an adult or elder at risk through determination and coordination of services.

- The APS case is completed after the coordination of services and the other appropriate investigatory agencies have been contacted to perform their role in response to abuse, neglect, and financial exploitation.
- APS staff are statutorily required to report all APS referral and responses into the APS state reporting system, WRAPS.
- For cases in which the adult or elder at risk is identified as a resident of another county during the investigation, a copy (pdf format) of the completed departmental report form in WRAPS should be sent to the county of legal responsibility for their records and documentation.

# APS Resources and Assistance

## Wisconsin Department of Health Services and partner resources

See below for additional information on the various partners that have an investigatory role in responding to concerns of abuse, neglect, and financial exploitation in residential care facilities.

### Statutory references

- Elder Abuse Reporting System: Wis. Stat. § 46.90
- Adult at Risk Agency Duties, Investigation, Response, Records: Wis. Stat. § 55.043
- Emergency and Temporary Protective Placement: Wis. Stat. § 55.135

### APS technical assistance

DHS APS staff are available to provide technical assistance for any APS unit that needs additional clarification on role, resources, or support for facility-based investigations. Please contact DHS APS staff at DHSAPS@dhs.wisconsin.gov.

# Appendix: APS Partner Roles and Responsibilities

This appendix defines partner roles in responding to concerns of abuse, neglect, and financial exploitation in residential care facilities.

## Residential care facilities

All residents have a right to be "free from physical, sexual or mental abuse, neglect, and financial exploitation or misappropriation of property." (Per 483.12 State Operations Manual) A resident can file a grievance if they feel this right was violated. **Facilities should have on file at the facility any documentation (for example, protective placement paperwork) of a substitute decision maker and county of residence**.

All facilities must respond to concerns of abuse, neglect, or financial exploitation of their residents. All facilities share the same responsibilities, including:

- Immediately upon learning of the incident, the facility must take necessary steps to protect clients from possible subsequent incidents of misconduct or injury.
- Complainants alleging actions or inactions that may result in immediate harm to a consumer should be considered for a referral to APS and the adult's or elder at risk's MCO, if applicable. The facility is also encouraged to contact law enforcement in any situation where there is a potential criminal offense.
- The facility must immediately conduct a thorough investigation of all incidents and document the findings.

### Licensing and certification structure of residential care facilities

Residential care facilities have regulatory oversight through either certification or licensure depending on the type of setting.

- Three–four bed adult family homes (AFHs), community-based residential care facilities (CBRFs), residential care apartment complexes (RCACs), and nursing homes (NHs) are licensed and regulated by DQA at the Department of Health Services.
- One-two bed AFHs are largely certified by Family Care MCOs, but a small number are also certified by DHS (for IRIS participants), as well as county human services agencies.

### Assisted living facilities—AFHs, CBRFs, and RCACs

- If administration or management knows, has a reasonable cause to suspect, has received reports from the other household members or staff, and/or has observed any reportable events or abuse, they must notify the people and agencies listed below:
    - Guardians shall be informed within 24 hours of confirmation of the abuse or event.
    - The certifying agency (MCO, county agency, DHS, or DHS subcontractor) must be notified, and a report should follow the notification within 24 hours. This report does not take the place of a report to law enforcement, if warranted.
        - The MCO or placing agency must be notified within 24 hours.
        - The designated APS agency must be notified within 24 hours.
        - Law enforcement agencies should be notified as appropriate.

- Reportable abuse or events include:
  - Any significant change in residents' health, serious illness or injury, any injury sustained by the resident, unexpected hospitalization, or need for medical treatment.
  - Any unplanned absence of a resident from the home. This must be reported if residents' whereabouts are unknown or there is a lack of adequate supervision.
  - Abuse, neglect, or mistreatment of any reason due to any cause. An operator, sponsor, or any staff who knows or has reasonable cause to suspect that a resident has been abused or neglected per Wis. Stat. §§ 46.90 or 55.043 must immediately contact the certifying agency and follow up by completing the notification report form prescribed by the certifying agency. If the operator has reason to believe that a crime has been committed, the incident must also be immediately reported to law enforcement agencies. If the certifying agency has additional incident reporting requirements that are specified in their approved 1915c waiver, then said agency must follow that process as outlined per the waiver requirements.
  - The commission of a crime by a resident, upon learning the resident is the victim of a crime, or the arrest of any resident, household member, or staff.
  - Significant damage to the home.
  - The use of restrictive measure without following DHS-prescribed procedures.
- AFHs and CBRFs must submit reports of alleged caregiver misconduct to DQA within seven calendar days from when the entity knew or should have known about the incident.
- The AFH or CBRF must notify DQA within 24 hours of a significant change in a resident's status, such as but not limited to, an accident requiring hospitalization, disappearance from the home, or a reportable death. A death must be reported if there is reasonable cause to believe the death was related to use of a physical restraint or psychotropic medication, was a suicide, or was accidental. Other causes of death need to be reported to DQA within 3 days.

### Nursing homes

Wisconsin Stat. ch. 50 and § 146.40(4r)(am) requires treatment providers and agencies that meet the definition of an "entity" to report to DHS any allegation of client abuse or neglect or misappropriation of the client's property by any individual employed by or under contract with the entity, if the individual is under the control of the entity. Failure to report allegations of client abuse or neglect or misappropriation of the client's property may result in forfeitures, sanctions, or other regulatory action.

Nursing homes must submit an initial, abbreviated report immediately and no later than 24 hours after discovery of the incident or allegation. Nursing homes must also submit an additional, comprehensive report within five working days.

## Department of Health Services

### Area Administration

Area Administration provides support and assistance to leadership and staff at Wisconsin county human services agencies. The Area Administration staff are situated locally in five regions of the state including the northeastern, northern, southeastern, southern, and western regions. Area Administration staff are helpful first points of contact for local APS units that need technical assistance or consultation on a specific case. Area

Administration works closely with the other divisions within DHS and can help point partners to the appropriate contact or resource.

## Division of Public Health

The Division of Public Health provides public health services that address communicable and chronic diseases; health promotion; environmental, occupational, and family and community health; emergency medical services; emergency preparedness; and injury prevention.

### Bureau of Aging and Disability Resources

The Bureau of Aging and Disability Resources has an APS team devoted to supporting counties and Tribal nations in a collaborative, consistent, least restrictive response to APS-related matters. This support is provided through DHS-sponsored trainings, technical assistance, case consultations, attendance at county interdisciplinary team and APS regional meetings, and development of policy and best practice documents. The APS team also oversees and supports the Wisconsin Reporting for Adult Protective Services (WRAPS) system.

## Division of Quality Assurance

DQA is responsible for ensuring the safety, welfare, and health of people using health and community care provider services in Wisconsin. Listed below are the bureaus and office within DQA that are most relevant to APS response to concerns in residential care facilities.

### Bureau of Assisted Living (BAL)

BAL is responsible for licensing and surveying CBRFs, three–four bed AFHs, and residential care apartment complexes.

- BAL will schedule and initiate an investigation within **14 working (business) days** of those complaints marked as serious threats. These include:
  - Any complaint that indicates an immediate and serious threat to a resident's health and/or safety.
  - Any report of a death where there is reasonable cause to believe that the death was related to the use of physical restraint or psychotropic medication, or where there is reasonable cause to believe that the death was a suicide.
- BAL will schedule and initiate an investigation for all other complaints within **45 working (business) days**. This includes those complaints that do not indicate an immediate and serious threat but do provide an indication that a code violation may exist.

### Office of Caregiver Quality (OCQ)

OCQ investigates abuse allegedly done by facility staff or contracted providers at the facility.

A facility should also report to OCQ any allegation of intentional abuse, neglect, or misappropriation of client property by an employee or contractor of the treatment provider or facility. Any person may report allegations of misconduct by employees and contractors.

OCQ administers the Background Check and Misconduct Investigation Program. This program promotes public confidence in DHS-approved treatment providers by implementing a system of statutory protections for individuals receiving care in Wisconsin. Protections include minimum standards for eligibility to to operate treatment programs or facilities, to reside in treatment facilities as a non-client, or to work in roles with regular and direct client contact. The program also establishes streamlined processes for both public and provider-

based reporting of intentional abuse, neglect, or misappropriation of client property by employees and contractors. Individuals with substantiated findings of misconduct are listed on the Wisconsin Misconduct Registry and may apply for rehabilitation approval.

If there is no employee or contractor involved (for example, the suspected abuser is another resident living in the facility, a family member, a guardian, or a stranger), OCQ does not have jurisdiction but will promptly refer the matter to a DQA bureau or other partner (for example, Department of Justice, Office of the Inspector General, Department of Safety and Professional Services, or APS).

## Bureau of Nursing Home Resident Care (BNHRC)

BNHRC is responsible for conducting unannounced surveys of nursing homes and facilities serving people with developmental disabilities. In addition, BNHRC conducts complaint investigations and makes care-level determinations for people receiving medical assistance in the community or in nursing homes.

Complaints alleging actions or inactions that may result in immediate harm to a resident should be considered for a referral to the MCO, APS, or law enforcement.

### BNHRC response timelines

- Schedule and initiate an investigation within **three working (business) days** of complaints marked as "immediate jeopardy," including:
  - A situation in which the provider's noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.
  - Fires resulting in serious injury or death.
- Schedule and initiate an investigation within **15 working (business) days** of complaints marked as "non-immediate jeopardy high." Intakes are assigned a "high" priority if the alleged noncompliance with one or more requirements may have caused harm that negatively impacts the individual's mental, physical, and/or psychosocial status and is of such consequence to the person's wellbeing that a rapid response by the state agency is indicated. Usually, specific rather than general information, such as descriptive identifiers; individual names; date, time, or location of occurrence; and description of harm, factors into the assignment of this level of priority.
- Schedule and initiate investigation within **45 working (business) days** of complaints marked as "non-immediate jeopardy medium." Complaints are assigned a "medium" priority if the alleged noncompliance with one or more requirements caused no actual physical and/or psychosocial harm but there is the potential for more than minimal harm to the resident(s) (severity level 2).
- Track for potential focus areas during the next onsite survey or initiate a new complaint survey for complaints marked as "non-immediate low." Intakes are assigned a "low" priority if the alleged noncompliance with one or more requirements may have caused no actual harm with a potential for minimal harm (severity level 1). The investigation is to be initiated in accordance with section 5075.9. in the State Operation Manual.

## Division of Medicaid Services

The Division of Medicaid Services supports Wisconsin's Forward Health programs to provide access to health care, long-term care, and nutritional assistance for individuals and families who are elderly, have a disability, or have low income. The bureau listed below within the division is the most relevant to APS response to concerns in residential care facilities.

### Bureau of Quality and Oversight

The Bureau of Quality and Oversight is responsible for managing and improving contract compliance and program quality for Medicaid long-term care programs including IRIS, Family Care, Family Care Partnership, and PACE. They also manage all aspects of the long-term care functional screen and develop programmatic best practices.

# Managed care organizations

Incidents meeting criteria in Wis. Stat. §§ 46.90(4) or 55.043(1m) are reported in accordance with the applicable statute to the appropriate authority. The MCO is not responsible for or a substitute for APS investigations. Best practice is for the MCO to notify APS within 24 hours of any report of abuse or neglect of a member they are serving.

- The MCO has designated staff to conduct incident investigations who:
  - Are not directly responsible for authorizing or providing the member's care.
  - Have sufficient authority to obtain information from those involved.
  - Have clinical expertise to evaluate the adequacy of the care provided relevant to the member incident.
- The MCO will designate staff to provide oversight of MCO staff or the provider who must investigate the incident in a manner consistent with the relative scope, severity, and implications of any given member incident and determine and document, at a minimum, the following:
  - The facts of the reported incident (including the date and location of occurrence), the type and extent of harm experienced by the member, any actions that were taken immediately to protect the member and to halt or lessen the harm.
  - The cause(s) of the incident.
  - Whether reasonable actions by the provider or others with responsibility for the health, safety, and welfare of the member would have prevented the incident.
  - Interventions and/or preventative strategies, which may include changes in the MCO's or provider's policies or practices to help prevent occurrence of similar incidents in the future.
- When warranted, an investigation of each reported member incident must be completed within 30 calendar days of the incident's discovery. If information or findings necessary for completion of the investigation cannot be obtained within 30 days for reasons beyond the MCO's control, the investigation must be completed as promptly as possible.
- The MCO must report member incident data in accordance with DHS's incident data report specifications. The report submission is due on the 30th day after the end of the month, or the first business day following the 30th day when the 30th day is not a business day. The report must be submitted electronically through the Long-Term Care Information Exchange System.

- Within five business days of completion of the investigation, the MCO must provide notification to the member or their legal decision maker (and/or the member's family, as appropriate) of the results or outcomes of the investigation. This notification must be documented in the member record.
- Contracted providers must report member incidents to designated MCO staff no later than one business day after the incident was discovered. The facility is to ensure the safety of residents immediately to prevent further harm to the affected member(s).
- Incidents wherein the member is a victim of a potential violation of the law are reported to local law enforcement authorities. Incidents where the member is suspected of violating the law are reported to local law enforcement, to the extent required by law.
- The MCO, within three calendar days of learning of the incident, notifies the member or their legal decision maker of the incident, unless the member or their legal decision maker reported the incident to the MCO, the MCO has within that time determined that the report was unfounded or unsubstantiated, or the legal decision maker is a subject of the investigation.
- When warranted, an investigation of each reported member incident must be completed within 30 calendar days of the incident's discovery. If information or findings necessary for completion of the investigation cannot be obtained within 30 days for reasons beyond the MCO's control, the investigation must be completed as promptly as possible.

## Ombudsman

Ombudsmen do not investigate allegations of abuse but are often the first source of intake in long-term care settings and have a statutory responsibility to investigate whether due process and rights protections were afforded to the resident or client.

Ombudsman also assist with resident education about the investigatory process. They will follow up with the resident to ensure they feel safe and expectations for outcomes were met.

There is no regulatory requirement to report allegations to the ombudsman, however they can be helpful to the process if informed early. Ombudsmen are not emergency responders, nor mandatory reporters.

## Disability Rights Wisconsin

Disability Rights Wisconsin is a nonprofit organization that provides legal advocacy and rights protections for adults and children with disabilities. In APS-related matters the age group they serve are ages 18–59. Some of the people they serve include those with intellectual disabilities, mental illness, traumatic brain injury, and/or physical or sensory disabilities.

## Helpful Resources

- DQA Consumer Guide: Provider Search
- Reporting Requirements for Assisted Living Facilities, P-02007
- Wisconsin Background Check and Misconduct Investigation Program Manual for Entities Regulated by the Division of Quality Assurance, P-00038
- DQA Misconduct Reporting Worksheet
- Medicaid Standards for Certified 1-2 Bed Adult Family Homes
- Standards for Certified 1-2 Bed Adult Family Homes, P-00638

- Wisconsin Admin. Code ch. DHS 88: Licensed Adult Family Homes
- Wisconsin Admin. Code ch. DHS 83: Community-Based Residential Facilities
- Nursing Home Reporting Requirements for Alleged Incidents of Abuse, Neglect, Exploitation, and Misappropriation, P-00981
- Misconduct Definitions, P-00976
- Long-Term Care Information Exchange System
- Board on Aging and Long Term Care—Ombudsman Program
- Disability Rights Wisconsin—Family Care and IRIS Ombudsman Program