

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



August 12, 1999

ALL COUNTY LETTER NO. 99-53

TO: ALL COUNTY WELFARE DIRECTORS
ADULT PROTECTIVE SERVICES
PROGRAM MANAGERS

**REASON FOR THIS
TRANSMITTAL**

- State Law Change
- Federal Law or Regulation
Change
- Court Order or Settlement
Agreement
- Clarification Requested
by One or More Counties
- Initiated by CDSS

SUBJECT: ELDER ABUSE AND DEPENDENT ADULT CIVIL PROTECTION ACT
ADULT PROTECTIVE SERVICES (APS)

REFERENCE: All-County Letter No. 99-16

All County Letter (ACL) No. 99-16, dated March 27, 1999, provided an overview of Senate Bill (SB) 2199's reporting requirements, and basic implementation instructions for the May 1, 1999 statewide APS Program. The purpose of this ACL is to provide in-depth operational instructions on the 24-hour response system, including defining the scope of APS, cross-reporting requirements, and instructions on the provision of emergency shelter and in-home protection. These instructions are included in the attachment.

Additional ACLs will be issued, as needed, to transmit detailed operational instructions on other components of the May 1, 1999 APS Program. SB 2199 authorizes the California Department of Social Services (CDSS) to issue instructions through ACLs for the statewide APS Program until January 31, 2000 when regulations must be adopted. Until regulations are adopted, counties are instructed to use the information in the ACLs to implement their APS Programs.

In the process of regulation development, additional requirements may be added or the instructions contained in these ACLs may be amended. The CDSS will keep you informed of any changes that are necessary.

Assembly Bill 1111 added Section 15766 to the Welfare and Institutions Code which requires the investigation of allegations of elder and dependent adult abuse, and the case management of elder and dependent adult abuse cases to be performed by county merit systems civil service employees only. In addition, this bill requires the CDSS to establish standards for answering service staff to meet in order to handle specific APS calls. Because of this, answering service requirements outlined in this ACL may change to reflect any new standards.

If you have any questions regarding this letter, you may contact your Adult Programs Operations and Technical Assistance Analyst at (916) 229-4000 or the APS Bureau at (916) 229-0323.

Sincerely,

***Original Document Signed By
Donna L. Mandelstam On August 12, 1999***

DONNA L. MANDELSTAM
Deputy Director
Disability and Adult Programs Division

Attachment

ATTACHMENT TO ACL 99-53

I. SCOPE OF ADULT PROTECTIVE SERVICES

APS is a limited intervention for the purpose of assisting elder and dependent adults suffering from or at risk of abuse or neglect, including self-neglect. APS includes:

- Response to reports of abuse or neglect
- Investigation
- Preventive measures
- Remedial services
- Case management and arrangement for delivery of long-term or on-going services.

Adult Protective Services are not intended to interfere with the life style choices of elders or dependent adults, nor necessarily to protect them from all the consequences of such choices. The preventive and remedial services are delivered only with the consent of the victim.

A victim of elder or dependent adult abuse may refuse or withdraw consent at any time to the provision of services by an APS agency.

If the elder or dependent adult appears to be incapacitated to the extent he/she is unable to give or deny consent to protective services, a petition for temporary conservatorship or guardianship may be considered in accordance with Section 2250 of the Probate Code. The physical or mental incapacity or both, of an elder or dependent adult shall not, in itself, result in a determination by APS that protective services are necessary.

Reference: WIC 15610, 15636, 15750, 15752, 15760, and 15763

II. INVENTORY OF ALL PUBLIC AND PRIVATE SERVICE AGENCIES

1. Each county APS agency shall maintain an inventory of all public and private service agencies available to assist victims of abuse.
2. This inventory shall be used to refer elder and dependent adult victims in the event that the county adult protective services agency cannot resolve the needs of the victim, and to serve the victim on a long-term or follow-up basis.

Reference: WIC 15650 (e)

III. APS 24-HOUR SYSTEM AND RESPONSE TO REPORTS

1. Each county APS agency shall be responsible for investigating all reports/referrals of abuse to an elder or dependent adult except those pertaining to such persons residing in a long-term care facility, as defined in Section 9701 of the WIC, a residential care facility as defined in Section 1502 of the Health and Safety Code, or a state mental hospital or developmental center as specified in Section V.2 of this ACL.
2. Each county APS agency shall provide a system of 24-hour in-person response to reports of abuse or neglect of an elder or dependent adult. The APS worker shall respond to such reports:
 - a) Where there is a report of an immediate life threat, such as a present risk of death or severe physical injury, or imminent danger, the APS worker shall make, or attempt to make, a face-to-face response immediately for the purposes of immediate intake or intervention.
 - 1) The APS worker shall provide an in-person response immediately when the local law enforcement agency requests them to respond immediately to a report of imminent danger or life threatening abuse. The county APS agency shall initiate protocols with law enforcement agencies to address these circumstances.
 - b) The APS worker shall make, or attempt to make, a face-to-face response immediately for the purposes of immediate intake and intervention where there is a report of a crisis in an existing case, such as when existing protective, supportive or remedial measures have failed.
 - c) To all other reports of danger of abuse to an elder or dependent adult, the APS worker shall respond as soon as necessary in the APS worker's judgement, but in no case longer than 10 calendar days.
3. County APS agencies may establish 24-hour in-person response systems in cooperation with neighboring counties provided there is a written agreement in place between the counties that includes, at a minimum, provisions that performance under the agreement shall be in compliance with applicable provisions of Federal and state statute and regulation, and a plan for how the responsibilities and finances will be shared.

Reference: WIC 15610.47, 15650(b), 15763

IV. PHONE ACCESS

County APS agencies may utilize telephone answering services to receive and transfer calls after normal working hours and on weekends and holidays. Counties have two options in which to utilize answering services to handle APS calls:

Option 1: The answering service immediately transfers all APS related calls to an APS social worker except callers clearly requesting routine information not related to APS.

Option 2: County APS agencies may utilize “specially trained” answering service staff to handle APS related calls. In order to utilize this option, the county APS agency shall ensure that the persons answering the telephone meet the following qualifications prior to answering any phone calls for the APS agency:

- Each person shall have a background in mental health and/or crisis intervention, and:
- Each person shall receive comprehensive and appropriate training on the APS program requirements, policies, and skills necessary to appropriately handle APS calls.

Answering service staff who meet the above qualifications shall transfer all APS related calls to an APS social worker except:

- 1) Callers clearly requesting routine information not related to APS.
- 2) A caller reporting an incident of abuse which occurred prior to the date of the call, and the alleged victim is not currently at risk and no safety issues exist.
- 3) The caller is requesting information about another service program. In this case, the caller shall be referred to the appropriate agency.

In Option #2, the answering service shall fax or electronically transfer a written report of all APS reports received no later than the start of the next business day, whether or not the call was forwarded to the county APS worker.

Free public telephone access to county APS emergency response staff or to the answering service shall be provided to the public via a toll-free number or the acceptance of collect calls.

Reference: WIC 15763, 15766

V. EVALUATING THE INITIAL REPORT OF ABUSE

1. Upon receiving a report of elder or dependent adult abuse, each county APS worker shall:
 - a) Determine whether the reported incidence of abuse meets the definition of elder or dependent adult abuse, and whether APS is the appropriate agency to respond.
 - b) Upon initial receipt of a telephone report of abuse of an elder or dependent adult who lives out of the county or state, APS shall refer the caller to the appropriate APS agency having jurisdiction. Upon initial receipt of a written report of abuse of an elder or dependent adult who lives out of the county or state, APS shall forward the written report to the APS agency having jurisdiction and follow-up to confirm that the agency received the report.
 - c) Determine if another public agency has been given responsibility for investigating the known or suspected elder or dependent adult abuse.
2. Agencies and their mandated investigative responsibilities of abuse include, but may not be limited to:
 - (a) Investigations of reports of known or suspected abuse occurring in long-term care facilities are the responsibility of the Long-Term Care Ombudsman Program. The statewide telephone number for reporting abuse is (800) 231-4024. The fax number is (916) 323-7299.
 - (b) Investigations of known or suspected abuse occurring in a state mental health hospital are the responsibility of the State Department of Mental Health or local law enforcement. The Office of Patient's Rights is located at 100 Howe Avenue, Suite 240 N, Sacramento, California 95825. The telephone number is (916) 575-1610, and fax number is (916) 575-1613. Following is a list of state mental health hospitals:

Atascadero State Hospital Atascadero, California	Metropolitan State Hospital Los Angeles, California
Napa State Hospital Napa, California	Patton State Hospital Patton, California
 - (c) Investigations of known or suspected abuse occurring in a state developmental center are the responsibility of the State Department of Developmental Services. Reports of abuse should be reported to the Department of Developmental Services, Office of Investigations, located at 1600 9th Street, Sacramento, California 95814. The telephone number is (916) 654-1738, fax number is (916) 654-1716. Following is a list of Developmental Centers:

Agnews Developmental Center
San Jose, California

Lanterman Developmental Center
Pomona, California

Fairview Developmental Center
Costa Mesa, California

Sonoma Developmental Center
Eldridge, California

Porterville Developmental Center
Porterville, California

3. Once the APS worker determines the report is within the jurisdiction of the county APS agency, the worker shall determine whether the report needs to be investigated immediately or within 10 days as described in Section III of this ACL.
4. An in-person face-to-face response is required in all cases except under the following circumstances:
 - a) The APS worker has attempted, and documented attempts, to locate the elder or dependent adult or their families, but has been unsuccessful, and the supervisor documents that the worker made all reasonable attempts to contact the victim or the family.
 - b) The elder or dependent adult has moved out-of-state or out-of-county and the worker has reported the abuse and provided follow-up telephone contact to the appropriate county or out-of-state APS agency, and documented that fact.
 - c) The elder or dependent adult is deceased and based on an evaluation of the circumstances, there is no indication that another elder or dependent adult is at risk.
 - d) The mandated reporter is reporting a past occurrence of abuse and no new allegations are made or there are no present risks as confirmed by the APS worker through collateral contacts, and the worker's supervisor has determined that additional attempts are unnecessary.
 - e) ACL #99-16 indicated that additional circumstances in which an in-person response may not be required would be addressed in a subsequent ACL. At this time, no additional circumstances under which an in-person response is not needed have been agreed upon. The issue remains under consideration.

Reference: WIC 15610.07, 15610.10, 15650, 15750, and 15763

VI. CROSS REPORTING ABUSE TO LAW ENFORCEMENT AND OTHER PUBLIC AGENCIES

1. When APS has reason to suspect that any known or suspected instance of criminal activity has occurred related to elder and dependent adult abuse, APS shall immediately, or as soon as practically possible, report by telephone or fax to the law enforcement agency having jurisdiction over the case.
2. Reports of financial abuse to law enforcement shall be made after the initial APS investigation determines that there is reasonable suspicion of criminal activity.
3. APS shall immediately, or as soon as practically possible, report by telephone every known or suspected instance of abuse, neglect or exploitation of an elder or dependent adult to any public agency given responsibility for investigation of such cases in that jurisdiction (see Section V.2).
4. Each county APS agency shall also transmit a written report within two working days of receiving the information about the incident to each agency to which it is required to make a telephone report.

Reference: WIC 15640

VII. REPORTS OF ABUSE COMMITTED BY A LICENSED HEALTH CARE PRACTITIONER

1. If a county APS agency receives a report of known or suspected elder or dependent adult abuse, and determines, pursuant to its investigation, that the alleged abuser is a health practitioner licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or any related statute, or by a person purporting to be a licensee, the APS agency shall immediately, or as soon as practically possible, report this information to the appropriate licensing agency.
 - a) The transmittal of the information to the appropriate licensing agency shall not relieve the APS agency of the responsibility to continue its own investigation.

Reference: WIC 15640

VIII. REPORTING RESULTS OF APS INVESTIGATION

1. County APS agencies shall report the results of their investigations of referrals or reports of abuse to the local law enforcement agency immediately upon request.
2. Results of APS investigations in licensed facilities shall also be reported to the licensing agency.

3. When disclosing the results of their investigations to the local law enforcement agency and the licensing agency, county APS agencies shall include copies of investigative reports unless prohibited from doing so by confidentiality laws, in which case they should provide a summary of the investigation.
4. When disclosing the results of the investigations, county APS agencies shall not disclose social services records or case files that are confidential or are prohibited from being disclosed pursuant to WIC 10850, 14100.2, or any other applicable law.
5. County APS agencies shall also report results of their investigations to the referring or reporting agency specified in WIC Section 15640(f).

Reference: WIC 10850 and 15640(f)

IX. DOCUMENTING REPORTS

1. The CDSS, in collaboration with the CWDA/APS Task Force, is in the process of developing and revising forms for the reporting of APS data, as well as for the reporting and cross-reporting of elder and dependent adult abuse. These forms will be sent in a separate ACL.

Reference: WIC 10809, 15630, and 15658

X. APS INVESTIGATIVE REQUIREMENTS

1. An investigation is a systematic inquiry to determine the validity of a report of elder or dependent adult abuse and, if necessary, the gathering of the information needed to develop an intervention plan to address any condition which places the dependent/elder adult at risk.
2. The purpose of an investigation is to:
 - a) Collect evidentiary facts to determine whether the abuse occurred and/or whether there is the potential for, or the existence of, any condition(s) which place the elder or dependent adult at risk and in need of services.
 - b) Determine the need for services to protect the interests and welfare of the elder or dependent adult.
 - c) Determine the need for referral to other community services.
3. Adult Protective Services and local law enforcement agencies shall be responsible for investigation of known or suspected incidents of abuse outside of long-term care facilities, state mental health hospitals, and state developmental centers, including, but not limited to:

- a) Adult's own home
 - b) Home of family member
 - c) Other private residence
 - d) Hotel, motel
 - e) Acute care hospital or clinic
 - f) Unlicensed senior housing complex where no care or supervision is provided
4. Documentation of investigative findings shall include:
- a) APS worker's written observations of alleged victim, environment, and indicators of abuse.
 - b) Statements of elder/dependent adults and collateral contacts.
 - c) Statement of alleged abuser, if available.
 - d) Written outcome of investigation, identifying types of abuse, the frequency of abuse (i.e., one isolated incident, chronic abuse, or new/recent abuse), the identity of the suspected perpetrator, and whether the report is confirmed, inconclusive, or unfounded.
 - 1) Confirmed means APS has investigated and based upon some credible evidence, can conclude that abuse occurred or most likely occurred.
 - 2) Inconclusive means APS has investigated and there is insufficient evidence to determine whether abuse occurred, but the report is not unfounded.
 - 3) Unfounded means APS has investigated and concluded abuse did not occur.

Reference: WIC 15650, and 15763

XI. OTHER AGENCIES' RESPONSIBILITY FOR INVESTIGATIONS

The roles of APS, the Ombudsman (OMB) and licensing agencies are being discussed in order to provide clarification to counties. In the meantime, counties need to respond to reports of abuse as directed in this ACL and work with licensing agencies and the OMB until further clarification is provided. These discussions do not affect the role of the Bureau of Medi-Cal Fraud (BMCF) in working with the OMB.

1. Adult Protective Services shall not be responsible for investigation of known or suspected incidents of abuse in long-term care facilities as defined in Section 9701 of the WIC, a residential care facility as defined in Section 1502 of the Health and Safety (H&S) Code, or a state mental hospital or developmental center as specified in Section V.2 of this ACL. These incidents of abuse should be reported to the office of the long-term care ombudsman and the licensing agency. Long-term care facilities include, but are not limited to:
 - a) Nursing or Skilled Nursing Facilities as defined in H&S Code 1250 (*WIC 9701*)

- b) Residential Care Facilities for the Elderly as defined in H&S Code 1569.2 (*WIC 9701*)
 - c) Residential Facility as defined in H&S Code 1502 (*WIC 9701*)
2. Investigations of known or suspected abuse occurring in a state mental health hospital shall be the responsibility of the State Department of Mental Health or local law enforcement.
 3. Investigations of known or suspected abuse occurring in a state developmental center shall be the responsibility of the State Department of Developmental Services.

Reference: WIC 9701, 15650, and 15763, H&S 1502 & 1569.2

XII. CONSENT TO ENTER RESIDENCE OR DWELLING AND MEET PRIVATELY

1. County APS workers, in investigating a report or referral, shall attempt to obtain consent to enter and meet privately with the elder or dependent adult about whom the report was made:
 - a) In the residence or dwelling in which the elder or dependent adult resides and;
 - b) Without the presence of the person's caretaker, attendant, or family or household member, unless the person requests their presence.
2. If the elder or dependent adult does not give consent for the APS worker to enter the residence and meet privately, the APS worker should make attempts to meet with the elder or dependent adult, at some other convenient place, or in the presence of a person of the elder or dependent adult's choice.
3. If the APS worker has been denied access to the premises by the person or persons in possession of the premises, other than the elder or dependent adult, and the worker has reason to believe an elder or dependent adult on those premises is subject to abuse, the APS worker shall request the assistance of law enforcement.

Reference: WIC 15755, 15762

XIII. WORKING WITH THE LONG-TERM CARE OMBUDSMAN

1. If county APS agencies receive a report of danger involving persons residing in a long-term care or residential care facility, the county shall forward the report to the long-term care ombudsman program, as follows:
 - a) If the report is received by telephone, the APS agency shall not accept the report but shall immediately instruct the caller to make the report to the long-term care ombudsman, or to a law enforcement agency within the jurisdiction.
 - b) If a written report is received, the APS agency shall immediately forward it to the long-term care ombudsman.

2. Upon receipt of a request for assistance from the long-term care ombudsman program, APS staff shall consult, coordinate, and support efforts of the ombudsman program to protect vulnerable residents. Such assistance may be provided, for example, through sharing of information, or through participating in a multidisciplinary personnel team or in a case conference.

Reference: WIC 15640, and 15763

XIV. EMERGENCY SHELTER AND IN-HOME PROTECTION

1. Emergency shelter or in-home protection shall be provided on a temporary basis to dependent adults and elders as follows:
 - a) In response to new reports involving immediate life threats or imminent danger (present risk of death or serious physical injury), and to crises in existing cases (when existing protective, preventive, supportive or remedial measures have failed). Emergency shelter or in-home protection shall be provided for the elder or dependent adult until the dangers at home can be resolved.
 - b) To the extent resources are available, for the purposes of providing emergency shelter in the form of a safe haven or in-home protection to frail and disabled victims who are in need of assistance with activities of daily living.
2. When determining the need for emergency shelter or in-home protection, the county APS worker shall give priority to providing in-home protection rather than removing the victim from his/her home when consistent with the elder or dependent adult's health and safety needs.
3. When selecting a temporary placement, the APS worker shall, as soon as possible:
 - a) Consider the client's needs, including health-related conditions and safety needs, medical needs, such as medications and dietary needs, or psychological care.
 - b) Develop a plan with the client to move him or her back home, if the danger at home has been resolved, or to an appropriate placement.
3. Examples of an appropriate temporary emergency shelter include, but are not limited to:
 - a) A home or dwelling belonging to a member of the elder or dependent adult's family if it would not constitute a risk to the elder or dependent adult.
 - b) An adult residential care facility or residential care facility for the elderly that is licensed by the State of California and has a contractual agreement with the county for the provision of emergency shelter. *(Please reference ACL No. 99-48 for instructions on the emergency placement of elders and dependent adults in licensed facilities.)*

- c) A 24-hour health facility, as designated by Sections 1250, 1250.1, and 1250.3 of the Health and Safety Code.
- d) Hotels, motels, apartments or other emergency shelter when care and supervision of the elder or dependent adult is not needed.

Reference: WIC 15763