

## **APPENDIX A**

For the purpose of this policy, consumer incidents shall be defined as follows:

### **1. Aspiration/Choking**

**Definition:** The inhaling of food or other object in the lung (aspiration) or choking.

**Reportable Incident:** Any aspiration or choking where the consumer is able, through coughing, to clear their airway without assistance from staff or medical intervention.

This includes, any aspiration or choking incident that results in staff assistance, (e.g. “stomach thrusts”) or emergency medical intervention by an emergency medical technician, physician, nurse practitioner, physician’s assistant.

### **2. Death**

**Definition:** All loss of life, regardless of cause.

**Critical Incident:** All consumer deaths are to be treated as a critical incident and reported no later than eight (8) hours after the death occurred to identified authorities as outlined by this policy.

### **3. Discovery of Illegal or Hazardous Substances**

**Reportable Incident:** Finding the consumer in possession of goods, merchandise or items that are prohibited or illegal. Examples may include, but are not limited to: any item banned by Personal Support Plan (PSP) team approval\*, weapons, drugs, drug paraphernalia or child pornography. This includes, any incident involving the use of or the discovery of illegal or hazardous substances or items, where the service provider has a duty to inform law enforcement due to possible criminal violations of law, e.g. discovery of illegal drugs/drug paraphernalia, weapons, etc.

\* **Note:** If a consumer’s rights are restricted as part of a PSP plan or an approved behavior support plan, then the PSP Rights Restriction Form must be approved, signed and in place.

### **4. Hospitalization**

**Reportable Incident:** Any unplanned visit to a hospital, emergency room, clinic or medical professional by a consumer for treatment of an illness, a medical or psychiatric condition.

**Critical Incident:** Any unplanned admission to a hospital, clinic or other medical facility as a result of an illness or medical condition for surgery, medical observation, treatment, or testing; and any planned or unplanned psychiatric hospitalization.

## 5. Medication Error

**Reportable Incident:** Any medication or treatment error resulting in a situation where a consumer evidences, or could potentially experience, marked adverse side effects. A Medication Error is classified according to severity utilizing guidelines recommended by the *National Coordination Council for Medication Error Reporting and Prevention*.

Reportable Medication errors, as defined below, include circumstances or events that have the capacity to cause harm due to the nature of what occurred, an error that occurred but resulted in no harm to the consumer, or resulted in the need for increased monitoring of the consumer, including:

### a. **Physician or Pharmacy Error**

- Incorrect drug selection, contraindications, known allergies, harmful interaction with existing drug therapy;
- Incorrect dose, dosage form, quantity, route, concentration, rate of administration; and/or
- Illegible prescription(s) or medication order(s) that lead to errors.

### b. **Incorrect Administration:**

- Medication administered in a dose other than prescribed by the physician (greater than or less than);
- Inappropriate procedure or technique for administering the medication, e.g. wrong texture, consistency, position, or other specified procedures;
- An incorrect route of administration, or one which has not been prescribed;
- Administration of a drug that has expired or for which the physical or chemical dose (integrity of the drug) has been compromised; and/or
- Consumer's refusal to take the medication and follow medication regimen after reasonable efforts have been made to encourage the person to take the medication.

### c. **Omission/Missed Dose:**

- Medications not administered because the medication was omitted, sufficient quantities were not available, or not filling prescriptions within a reasonable amount of time; and/or
- The failure to administer a prescribed medication for one or more dosage periods;

### d. **Wrong Time:**

- Medication administered early or late; and/or
- Medication administered outside a predefined time interval from its scheduled administration time.

**e. Unauthorized Dose:**

- Medication not authorized by a physician for the consumer;
- Medication given to the wrong person;
- Administering medication beyond a “stop order”; and/or
- Administering medication prescribed to treat behaviors without consent from the parent or guardian;

**f. Training and Documentation Errors:**

- Incorrect documentation of medication orders, e.g. label on bottle does not match information on the Medication Administration Record (MAR);
- Administering medication but failing to document the MAR correctly;
- Failure to follow other agency procedures for medication administration; and/or
- Medication administered by unauthorized and/or improperly trained staff.

**g. Other:**

- Finding medication in an inappropriate area, e.g. in a person’s clothing, on the floor, packaged with a meal, in non-secure area, in an unmarked/open container or dish, mixed together in a container, etc.;
- Security/storage safeguards are not followed; or
- Failure to notify other service providers involved in supporting the consumer of new/changes in medication orders.

**Critical Incident:** Medication Errors are classified as Critical Incidents when the following conditions occur in relation to the examples cited above:

- a. Consumer evidences serious adverse side effects;
- b. Consumer's life, health or welfare is in jeopardy due to the above listed actions or inactions; and
- c. Consumer is either treated at a hospital emergency room or medical clinic;
- d. Consumer is admitted to a hospital; or
- e. Medications are discovered missing where there is likelihood that the medications may be sold or used illegally.

**Notes:** DPHHS/DDP must be notified of all Critical Medication Errors within eight (8) hours. Under no circumstances should the notification level of a medication error be classified as low.

Regardless of whether a consumer has experienced adverse side effects and/or their health/welfare is in jeopardy, certain types and/or patterns of medication errors

emerging from regular trend analysis of all medication errors may raise the incidents to a Critical Incident classification. As a result, service providers should respond as such and initiate investigations into those circumstances (e.g. has possible neglect occurred?).

## **6. Missing Person**

**Reportable Incident:** Any attempt to run away by a consumer whose absence potentially constitutes an immediate danger to that individual or others. This also includes, the unexpected or unauthorized absence of a consumer that meets the following criteria:

- a. Missing and formal search procedures are initiated;
- b. An unexpected or unauthorized absence of any duration for a consumer whose absence constitutes an immediate danger to that individual or others.

## **7. Injury**

**Reportable Incident:** Any suspected or confirmed physical harm to a consumer caused by an act of that person or another person, whether or not by accident, and whether or not the cause can be identified. Injuries include, but are not limited to physical harm requiring treatment and/or medical care for injuries such as:

- a. injuries which have required bandages;
- b. first and second degree burns;
- c. dislocations;
- d. sprains;
- e. allergic reactions;
- f. concussions;
- g. contusions;
- h. human or animal bites;
- i. sunburn;
- j. abrasions;
- k. loss of fingernail/toenail due to trauma;
- l. loss of teeth due to trauma; and/or
- m. puncture wound.

**Note:** "Suspected" physical harm is defined as an incident whereby the individual is assumed to need further examination to determine if an injury occurred as a result of the incident, for example, the individual has a hard fall on the sidewalk and staff suspect that the person has injured their knee.

Also, illness of a consumer, in and of itself, generally is not to be reported as an injury, but could be reported under hospitalization based on criteria identified in that incident category.

**Critical Incident:** Injuries of unknown origin that require assessment and/or treatment by a physician, physician assistant, nurse practitioner, dentist, or other licensed healthcare practitioner including, but not limited to:

- a. fractures;
- b. lacerations requiring sutures, use of derma bond, or staples;
- c. third degree burns;
- d. electric shock;
- e. loss or tearing of body part;
- f. all eye emergencies;
- g. ingestion of toxic substance; and/or
- h. any injury with loss of consciousness.

**Note:** If the injury is suspected to have been caused by abuse and/or neglect, the injury should be reported under the appropriate incident category and notifications made to proper oversight authorities including DDP, APS, CPS, law enforcement, etc.

## **8. Property Damage**

**Reportable Incident:** Any damage exceeding \$50.00 in cost to consumer, agency, or community property by a consumer or employee, regardless of intent that may include, but not be limited to:

- a. Broken windows;
- b. Damage to furniture; and/or
- c. Damage to automobiles (not caused by vehicle accidents).

## **9. Mechanical Restraint**

**Reportable Incident:** The application of a device to any part of a consumer's body that restricts or prevents movement or normal use and functioning of the body or body part to which it is applied.

The following are not considered mechanical restraints for the purpose of this policy:

- a. Devices used to provide support for the achievement of functional body positions and equilibrium that have been prescribed by an appropriate health care professional;

- b. Stretcher belts, one piece safety belts, rail safety belts and transportation safety belts intended to prevent a consumer from accidentally falling;
- c. Equipment that does not restrict or prevent movement or the normal use/functioning of the body or body parts to which it is applied;
- d. Mechanical supports to provide stability necessary for therapeutic measures, such as immobilization of fractures, administration of intravenous or other medically necessary procedures; and/or
- e. Car seats, high chairs, playpens or items generally used by parents and considered to be used for a child's general health and safety do not fall into this category, unless abuse, neglect or exploitation are suspected.

**Critical Incident:** The following are to be reported as a Critical Incident when they allegedly occur:

- a. Use of restraint vests, camisoles, Posey Vests, body wraps and chairs for behavioral reasons;
- b. Removing a consumer's mobility aids (wheelchairs, walkers, etc.) to prohibit freedom/choice of movement unless otherwise delineated through the consumer's PSP;
- c. Mechanical restraints that impair or inhibit visual or auditory capabilities or prevent, inhibit, or impair speech or other communication modalities; and/or
- d. Any use of a mechanical restraint occurring in a community program where the person is receiving services funded through the DDP without an approved program, as provided in ARM 37.34.1401 through 1408.

## **10. Physical or Manual Restraint**

**Reportable Incident:** Use of any physical or manual intervention used to restrict movement of the consumer including, but not limited to, holding a consumer's body or limb(s) contingent upon behavior, or using an approved manual restraint procedure (e.g. Mandt technique) so that movement is restricted or prevented for any amount of time. The use of physical restraint for behavioral purposes where there is an approved Behavior Support Plan in place is a reportable incident.

For the purposes of this policy, the following are not considered restraints:

- a. Holding a consumer's limb(s) or body to provide support for the achievement of functional body positions and equilibrium that have been prescribed by an appropriate health care professional;
- b. Holding a consumer's limb(s) or body as part of a specific medical, dental or surgical procedure that have been authorized by an appropriate health care professional; and/or

- c. Holding a consumer's limb(s) or body to prevent an individual from accidentally falling.

**Critical Incident:** Physical or manual restraint practices prohibited by this policy identified below are to be reported as a Critical Incident when they allegedly occur:

- a. Take Downs;
- b. Physically forcing an individual to a ground or other surface.
- c. Prone Restraints;
- d. Holding an individual face down in a horizontal position;
- e. Using restraints as punishment;
- f. Using restraints for the convenience of staff;
- g. Using restraints as a substitute for treatment or care in conflict with a physician's order;
- h. Using restraints in quantities which inhibit effective care/treatment; and/or
- i. Any use of a physical restraint occurring in a community program where the person is receiving services funded through the DDP without an approved Behavioral Support Program, as provided in ARM 37.34.1401 through 1408.

## **11. Use of PRN Medication for Behavior**

**Definition:** A chemical substance used for the control of a problem behavior which, when administered in a given dosage, results in a decrease or the elimination of the behavior.

**Reportable Incident:** The following use of a PRN medication is considered reportable: use of a PRN psychotropic medication where the medication has a protocol for its use or is part of a program plan.

**Critical Incident:** The following use of PRN medications is considered a Critical Incident and require reporting to the DDP Regional Office within one (1) business day: emergency or PRN usage of psychotropic medications, when the medication is not a part of a protocol or program plan or if there is reason to suspect that the protocol or program plan was not followed.

## **12. Use of Exclusionary Time Out**

**Definition:** "Exclusionary Time Out" means a method of decreasing a maladaptive target behavior by requiring a consumer to leave an ongoing reinforcing situation for a period of time, contingent on the occurrence of some previously specified maladaptive target behavior.

Note: While the use of “time out” is a concern in adult services, time out is considered an accepted practice for good parenting and parents with children who exhibit challenging behavior are typically taught methods of appropriately implementing time out procedures as an alternative to the use of punishment. Therefore, the use of time out by a parent receiving child and family services is not considered an incident under this policy unless abuse or neglect of the child is suspected.

**Critical Incident:** Any use of Exclusionary Time Out occurring in a community program where the person is receiving services funded through the DDP without an approved Behavior Support Program, as provided in ARM 37.34.1401 through 1408.

### **13. Use of Seclusion Time Out**

**Definition:** "Seclusion Time Out" means a method of decreasing a maladaptive target behavior by requiring a person to leave an ongoing reinforcing activity and go to a closed room for a period of time. Seclusion Time Out is contingent on the occurrence of some previously specified maladaptive target behavior. The room to which the person must go must not be reinforcing in any manner.

Note: While the use of “time out” is a concern in adult services, time out is considered an accepted practice for good parenting and parents with children who exhibit challenging behavior are typically taught methods of appropriately implementing time out procedures as an alternative to the use of punishment. Therefore, the use of time out by a parent receiving child and family services is not considered an incident under this policy unless abuse or neglect of the child is suspected.

**Critical Incident:** Any use of Seclusion Time Out occurring in a community program where the person is receiving services funded through the DDP without an approved Behavior Support Program, as provided in ARM 37.34.1401 through 1408.

### **14. Rights Violation**

**Definition:** Incidents that occur when a consumer or other person alleges that a right of the consumer as identified below has been violated:

- a. The right to education and training services;
- b. The right to reside, work and receive treatment in a safe environment;
- c. The right to an individual plan;
- d. The right to prompt medical and dental care;
- e. The right to a nourishing, well-balanced diet;
- f. The right to acquire the assistance of an advocate;
- g. The right to the opportunity for religious worship;

- h. The right to just compensation for work performed; and/or
- i. Any other rights guaranteed by civil or constitutional law.

If a consumer's rights are restricted as part of a Personal Support Plan (PSP), or an approved Behavior Support Plan, then the PSP Rights Restriction Form must be approved, signed and in place. The process to restrict a consumer's rights must be in accordance with Administrative Rule.

**Reportable Incident:** For the purposes of this policy, any restriction of a consumer's rights, without proper rights restriction or other legal authority, must be considered a reportable incident.

## **15. Seizure**

**Reportable Incident:** Any seizure activity involving a consumer where the consumer has sustained an injury, or has the potential for injury. This includes, any seizure activity involving a consumer that results in an injury, the potential for injury (as defined in the Physical Injury category of this policy), or requires the intervention of emergency medical staff per the individual's plan of care. NOTE: While it is not intended that the IR form be the required document used by service providers to track or monitor seizure activity of a consumer(s), ***the IR form may be used for this purpose.***

## **16. Self Injurious Behavior (SIB)**

**Reportable Incident:** A consumer engaging in behavior that results in injury, or may result in harm or injury, to themselves. This includes any self-injurious behavior that results in:

- a. Injury requiring assessment and/or treatment by a physician, physician's assistant, nurse practitioner, dentist, or other licensed healthcare professional; and/or
- b. Use of emergency behavioral support procedures.

## **17. Suicide Threats or Attempt**

**Reportable Incident:** There are no reportable incidents for this category.

**Critical Incident:** A consumer's verbal, non-verbal or written threat to kill him/herself. An incident involving an act (attempt) to harm, injure or kill oneself, whether or not the person actually injures or causes death to him/herself.

## **18. Ingestion of a Harmful Substance (PICA)**

**Reportable Incident:** Swallowing and/or ingesting substances that are non-food and potentially threatening to the health of the consumer, e.g., plants, poison, lotions, coins, paper clips, cigarette butts (PICA behavior). This Includes, PICA behavior resulting in medical assessment or treatment by a physician, physician's assistant, nurse practitioner, dentist, or other licensed healthcare professional

## **19. Law Enforcement Involvement**

**Reportable Incident:** Any incident involving a consumer where law enforcement has been contacted to provide,

- a. Behavioral support or intervention;
- b. Intervention with a consumer who may have been a victim of a possible crime;
- c. Interventions when a consumer has engaged in, is suspected of engaging in, or is alleged to have engaged in, possible criminal acts including, but not limited to: theft; assault; arson; vandalism; trespassing; possession of illegal substances; weapon possession; fraud; consumer calling 911 inappropriately;
- d. Force or restraint interventions including physical or manual restraint, mechanical restraint (e.g. handcuffs), chemical restraint (e.g. pepper spray, mace);
- e. Custody; and/or
- f. Gives the consumer a citation, ticket, or charged them with a civil or criminal offense.

## **20 – 24 Allegations of Abuse to the Consumer 26 – 30 Allegations BY The Consumer**

Definition: "Abuse" means:

- (a) the infliction of physical or mental injury; or
- (b) the deprivation of food, shelter, clothing, or services necessary to maintain the physical or mental health of an older person or a person with a developmental disability without lawful authority (MCA 52-3-803).

**Note:** Any individual who comes in contact with a consumer, including an employee, contractor, intern, volunteer, visitor, family member, another consumer or legal representative whether or not the involved consumer is, or appears to be, injured or harmed, may be alleged to have abused a consumer. However, it must be remembered that while the intent of this policy is to protect consumers from harm, it is not intended to be a mechanism to substitute for the proper recording of behavioral problems of consumers, including behaviors of consumers who are aggressive or assault others. Incidents involving consumer-to-consumer interactions

that result in injury and constitute abuse, as defined by this policy are to be coded as appropriate as listed in 26-30. If an incident is an allegation of abuse to the consumer code 20-24. If it is an allegation of abuse BY the consumer code 26 – 30.

**Critical Incident:** All incidents involving allegations of abuse are automatically elevated and treated as Critical Incidents. The Service Provider is expected to implement protocols defined by this policy in response to the allegations including reporting the incident to identified authorities external to the Service Provider organization, including DDP, APS, CPS, and/or law enforcement within required timeframes. DDP will initiate a parallel Critical Incident Investigation to review rules, policies, contractual obligations and programmatic procedures, regardless of whether or not a victim or a witness recants their testimony and any other organization is conducting an investigation of the alleged incident of abuse.

## **20. Abuse Allegation Involving Physical Injury to the Consumer**

**Definition:** "Physical Injury" means death, permanent or temporary disfigurement, or impairment of any bodily organ or function. (MCA 52-3-803) "Temporary disfigurement" means bruises, lacerations or any visible skin injuries.

**Critical Incident:** Any incident involving an allegation of Physical Injury, as defined above, is automatically elevated and treated as a Critical Incident. Code 20 thru 24 if it is an allegation of abuse to the consumer or 26-30 if it is an allegation of abuse BY the consumer.

### **21. Abuse Allegation Involving Mental Injury to the Consumer**

Definition: "Mental Injury" means an identifiable and substantial impairment of a person's intellectual or psychological functioning or well-being. (MCA 52-3-803)

**Critical Incident:** Any incident involving an allegation of Mental Injury, as defined above, is automatically elevated and treated as a Critical Incident. Code 20 -24 if it is an allegation of abuse to the consumer. Code 26-30 if it is an allegation of abuse BY the consumer.

## **22. Abuse Allegation Involving Exploitation of the Consumer**

**Definition:** "Exploitation" means:

(a) the unreasonable use of an older person or a person with a developmental disability or of a power of attorney, conservatorship, or guardianship with regard to an older person or a person with a developmental disability in order to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of or interest in the person's money, assets, or property by means of

deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the older person or person with a developmental disability of the ownership, use, benefit, or possession of or interest in the person's money, assets, or property;

(b) an act taken by a person who has the trust and confidence of an older person or a person with a developmental disability to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of or interest in the person's money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the older person or person with a developmental disability of the ownership, use, benefit, or possession of or interest in the person's money, assets, or property;

(c) the unreasonable use of an older person or a person with a developmental disability or of a power of attorney, conservatorship, or guardianship with regard to an older person or a person with a developmental disability done in the course of an offer or sale of insurance or securities in order to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of the person's money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the older person or person with a developmental disability of the ownership, use, benefit, or possession of the person's money, assets, or property. (52-3-803, MCA)

**Critical Incident:** Any incident as defined above involving an allegation of Exploitation is automatically elevated and treated as a Critical Incident. Code 20-24 if it is an allegation of abuse to the consumer or 26-30 if it is an allegation of abuse BY the consumer.

### **23. Allegation of Neglect of the Consumer**

**Definition:** "Neglect" means the failure of a person who has assumed legal responsibility or a contractual obligation for caring for an older person or a person with a developmental disability or who has voluntarily assumed responsibility for the person's care, including an employee of a public or private residential institution, facility, home, or agency, to provide food, shelter, clothing, or services necessary to maintain the physical or mental health of the older person or the person with a developmental disability. (MCA 52-3-803)

**Critical Incident:** Any incident as defined above involving the suspicion of or allegation of neglect is automatically elevated and reported as a Critical Incident. Code 20 -24 if it is an allegation of abuse to the consumer. Code 26-30 if it is an allegation of abuse BY the consumer.

### **24. Allegation of Sexual Abuse of the Consumer**

**Definition:** "Sexual abuse" means the commission of sexual assault, sexual intercourse without consent, indecent exposure, deviate sexual conduct, or incest, as described in Title 45, chapter 5, part 5. (MCA 52-3-803)

**SEXUAL ASSAULT:** Knowingly subjecting another person to any sexual contact without consent.

**SEXUAL INTERCOURSE WITHOUT CONSENT:** Knowingly having sexual intercourse without consent with another person

**INDECENT EXPOSURE:** Knowingly or purposely exposing the person's genitals under circumstances in which the person knows the conduct is likely to cause affront or alarm in order to:

- (a) abuse, humiliate, harass, or degrade another; or
- (b) arouse or gratify the person's own sexual response or desire or the sexual response or desire of any person.

**DEVIATE SEXUAL CONDUCT:** Knowingly engaging in deviate sexual relations or causing another to engage in deviate sexual relations.

**INCEST:** (1) Knowingly marrying, cohabiting with, having sexual intercourse with, or having sexual contact with an ancestor, a descendant, a brother or sister of the whole or half blood, or any stepson or stepdaughter. The relationships referred to in this subsection include blood relationships without regard to legitimacy, relationships of parent and child by adoption, and relationships involving a stepson or stepdaughter.

(2) Consent is a defense under this section to incest with a stepson or stepdaughter, but consent is ineffective if the victim is less than 18 years old.

**Critical Incident:** Any incident as defined above involving an allegation of Sexual Abuse is automatically elevated and reported as a Critical Incident. Code 20 – 24 if it is an allegation of abuse to the consumer. Code 26-30 if it is an allegation of abuse BY the consumer.

## **25. Allegation of Mistreatment of the Consumer**

**Definition:** The use of practices which are:

- a. Contra-indicated by a consumer's Individual Plan/Individualized Treatment Plan;
- b. Which do not follow accepted treatment practices and standards of care in the field of developmental disabilities; and/or
- c. Are not allowed as described within the laws or regulations of the State of Montana. This includes, but is not limited to the following:
  - 1. Use of any aversive procedure including use of:

- stimuli, activities, or sprays/inhalants that are, or may be considered noxious, intrusive, or painful;
  - Use of electric shock;
  - Water sprayed into the face;
  - Pinches and deep muscle squeezes;
  - Shouting, screaming or using a loud, sharp or harsh voice to frighten or threaten;
  - Use of obscene language;
  - Withholding of adequate sleep;
  - Withholding of adequate shelter or bedding;
  - Withholding bathroom facilities;
  - Withholding of warm clothes;
  - Withholding meals, essential nutrition or hydration; and/or
  - Use of facial or auditory screening devices;
2. Use of psychotropic medication, or behavioral intervention used to decrease inappropriate behavior which has not been approved by the Developmental Disabilities Program Review Committee and/or the provider agency's Human Rights Committee in compliance with laws or regulations of the State of Montana prior to implementation;
  3. Removal of a consumer's personal property as punishment;
  4. Unobserved time-out room or area used solely for time-out; and/or
  5. Use of chemical restraint instead of positive programs or medical treatment.

**Critical Incident:** Any incident as defined above involving an Allegation of Mistreatment is automatically elevated and reported as a Critical Incident.