

ADULT PROTECTIVE SERVICES

CHAPTER 3

2003 INVESTIGATION AND ASSESSMENT

INTRODUCTION

1. The purpose of the Investigation is to establish facts that will be useful in determining whether the reported individual is a victim of maltreatment or self neglect. Investigation is the process of determining whether A/N/E has occurred, who/what is responsible for A/N/E, and what the likelihood of recurrence is.

2. The purpose of the Initial Assessment is to identify risks; determine client areas of unmet needs and the potential need for ongoing protective services. Assessment is the process of gathering information, analyzing the information, drawing conclusions and making decisions to minimize or eliminate the risk factors that led to A/N/E (if substantiated).

Georgia law mandates the Division of Aging Services (DAS) to investigate allegations of A/N/E of disabled adults and elder persons, who are not residents of long-term care facilities. When the DAS/APS receives a report that a disabled adult or elder person is in need of protective services, and the report meets APS criteria, a prompt and thorough investigation shall be conducted to determine whether the allegations are substantiated, the disabled adult/elder person is in need of protective services and what services are needed.

DAS/APS requires an investigation and assessment be completed within 30 business days of the receipt (date of the acceptance) of the APS report.

This must include **AIMS documentation of:**

1. A home visit or a visit to the subject of the report;
2. A prompt, thorough and credible investigation of the allegations of abuse, neglect and/or exploitation;
3. A comprehensive assessment of the individual, his/her environment, support systems and risk factors;
4. Interviews with others to include collateral contacts who have knowledge of the situation.
5. Completion of all case related documentation in the AIMS system

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2003.1 MANDATORY INVESTIGATION

Requirements:

DAS/APS is responsible for conducting an investigation and assessment of disabled adults and elder persons who are alleged victims of A/N/E and are not residents of Long-term Care Facilities and have been accepted for investigation by APS Central Intake. The investigation of the APS report (allegations of abuse, neglect or exploitation) is mandatory and does not require the client's consent.

- The APS staff assigned the APS report shall complete an investigation to establish facts to determine if the reported individual is a victim of maltreatment and if A/N/E has occurred.
- The APS staff assigned the investigation shall have the **initial visit** with the client **no later than 10 calendar days** from the date of the acceptance of the APS report.

2003.2 CONTACTS WITH THE REPORTER

Requirements:

- APS Staff shall make contact with the original reporter during the investigation/assessment unless such contact might endanger the reporter or such contact might exacerbate the situation and further endanger the disabled adult/elder person.
- The reporter's name/identification must be kept confidential and shall not be divulged to others outside the parameters of the Confidentiality section of the APS Law.

State law and policy do not require APS to inform the reporter of the status of the case or outcome of the APS investigation and assessment beyond the written acknowledgement of the receipt of the report. Communication and coordination with the reporter shall be maintained as needed and with regard to maintaining the confidentiality and safety of the client.

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2003.3 CLIENT VISIT AND INTERVIEW

Requirements:

O.C.G.A. § 30-5-5(b) requires that any person conducting an investigation under the direction of the Division of Aging Services who is unable to gain access to the disabled adult or elder person as a result of interference by another person may petition the court for an order authorizing the investigation and prohibiting interference. A court order may be obtained to gain access to the client if access is denied. Immediately contact DAS Legal when this situation arises.

A visit shall be made to the adult who is the alleged victim of the A/N/E report. The case manager will observe and interview the adult who is the subject of the APS report in private. During the interview and observation, the case manager must focus on reported incidents of A/N/E, as well as any additional risks that may have not been reported.

All attempted, but unsuccessful contacts with the client and collateral contacts must be documented in detail in the AIMS case record.

The case manager shall review the "Notification of Privacy Practices" (HIPAA document) with the disabled adult or elder person in need of protection. The client shall be asked to acknowledge the receipt of this document by his/her signature (or mark) and a copy shall be issued to the client and the original maintained in the case file. In the event the client declines to sign the HIPAA document, a notation shall be made in the case record and dated. Additionally, the case manager will ask for a medical authorization, Form 5459, to be signed. If the subject of the investigation declines, then obtain the information on medical practitioners involved with care. APS is not required to have authorization to secure medical records for investigations.

2003.4 COLLATERAL CONTACT INTERVIEWS DURING INVESTIGATION AND INITIAL ASSESSMENT

Requirements:

Interviews and consultation with collateral contacts are necessary and required during the investigation/assessment and throughout ongoing APS case management.

Case managers should have contact with all persons (including those alleged to be the perpetrator), witnesses and professionals who have knowledge of information about the adult victim and/or situation putting the adult at risk.

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Collateral contacts must have a purpose and meaning to gather and/or validate information. Allegations made in the report along with any additional areas of risk identified in the assessment should have collateral information to support the overall case disposition. APS does not specify a minimum number of collateral contacts, but allows the case manager and supervisor to explore the range of information necessary to make decisions regarding safety and risk for recurrence of A/N/E.

If a person allegedly in need of protection or a collateral contact is represented by legal counsel who will appear at the interview, please contact DAS Legal.

2003.5 INVESTIGATION FINDINGS and DISPOSITION

Requirements:

Investigation Findings

The case manager shall use the information gathered during the investigation to make findings, conclusions, and a disposition of either “substantiated” or “unsubstantiated” within 30 business days of acceptance of the report.

The case manager shall document findings and conclusions of the APS investigation in AIMS, which is the official case record.

Disposition of Investigation:

Based upon the findings, the allegations are either substantiated or unsubstantiated.

Substantiated – A disposition category following an Adult Protective Services investigation where the case manager and/or other APS staff concludes, based upon a preponderance of evidence and their professional judgment, that abuse, neglect and/or exploitation has occurred and that the disabled or elder adult who is the subject of the APS report is physically or mentally impaired.

Unsubstantiated - A disposition category following an Adult Protective Services investigation based upon credible evidence and professional judgment that insufficient evidence exists to determine by a preponderance that abuse, neglect and/or exploitation has occurred to the disabled or elder adult who is the subject of the APS referral.

The Supervisor shall review the case findings and approve all case dispositions

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2003.6 DOCUMENTING CASE FINDINGS

Requirements:

Case findings shall be documented in AIMS and must include both the investigative findings (determination), as well as justification for further APS intervention, if applicable.

Documentation of case findings includes all of the following elements:

- A brief but clear determination statement.
(if case is being substantiated or unsubstantiated for A/N/E)
- A report to Law Enforcement if substantiated for A/N/E (with the exception that cases substantiated for self-neglect are not reported).
- A brief but clear justification statement addressing the client's personal vulnerability; social vulnerability and risk for further endangerment.
- A statement of either what will/will not occur as a next step, and why.
- The concurrence of approval by the immediate supervisor or designee.

2003.7 ADULT ABUSE REPORT TO LAW ENFORCEMENT

Requirements:

When the investigation **substantiates** A/N/E, these facts shall be sent to Law Enforcement via a written report. A report shall be made to the appropriate Law Enforcement authority and/or District Attorney when APS completes the investigation and "has reasonable cause to believe such a report is true (A/N/E has occurred)".

All substantiated reports of A/N/E, with the exception of self-neglect/self-abuse are mandated to be reported to Law Enforcement.

Confidentiality of APS records does not prohibit law enforcement from having access to APS records when conducting an investigation into any criminal offense in which a disabled adult or elder person is a victim.

2003.8 ASSESSMENT CONDUCTED

Requirements:

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A comprehensive initial assessment shall be conducted within 30 business days of the acceptance of the referral and documented in AIMS.

The assessment determines the level of endangerment, if the client understands the risk of further maltreatment and his/her willingness to accept services.

The Assessment tool, findings from collateral contacts, completed DON-R assessment and case manager judgment are the basis for developing the justification for ongoing APS and the Case Plan. The Initial Determination Statement, completed in AIMS, provides the need for ongoing APS based on the facts and findings from the investigation/assessment.

During the investigation and initial assessment of a report, it may be necessary for the case manager to secure services, resources or take legal actions to meet a client's needs.

2003.9 SELF-NEGLECT

Requirements:

Reports of self-neglect on individuals who are disabled adults and/or elder persons shall be accepted for Adult Protective Services if the individual meets APS criteria. Self-neglect as a type of maltreatment is unlike other forms of maltreatment because it does not violate criminal laws nor is generally committed with informed and willful intent. Self-neglect cases highlight the balance of rights inherent in our legal system between the individual's right to self-determination and the state's duty and authority to regulate activities that involve the health and safety of society.

2003.10 GUARDIAN OR CONSERVATOR PETITIONS FOR PROTECTION

Requirements:

When APS determines that a disabled adult or elder person in need of protection cannot remain protected due to an incapacity and there are not sufficient alternatives to guardianship or conservatorship, a petition for the appointment of a guardian or conservator can be filed with a probate court pursuant to the Disabled Adults and Elder Persons Protection Act (O.C.G.A. § 30-5-5).

Prerequisite findings that a probate court must have prior to appointment of a guardian for an adult include the following:

- *The court may appoint a guardian for an adult only if the court finds the adult lacks sufficient capacity to make or communicate significant responsible decisions concerning his or her health or safety.*

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- *No guardian shall be appointed for an adult unless the appointment is in the best interest of the adult. (From O.C.G.A. § 29-4-1)*

A probate court must find the following before a conservator can be appointed:

- *The court may appoint a conservator for an adult only if the court finds the adult lacks sufficient capacity to make or communicate significant responsible decisions concerning the management of his or her property.*
- *No conservator, except a conservator for the estate of an individual who is missing or who is believed to be dead, shall be appointed for any adult except pursuant to the procedures of this chapter.*
- *No conservator shall be appointed for an adult unless the appointment is in the best interest of the adult.*
- *No conservator shall be appointed for an adult within two years after the denial or dismissal on the merits of a petition for the appointment of a conservator for that adult unless the petitioner shows a significant change in the condition or circumstances of the adult. (From O.C.G.A. § 29-5-1)*

Requirements for a petition for the appointment of a guardian or a conservator can be found at O.C.G.A. §§ 29-4-10 and 29-5-10; the requirements for a petition for the appointment of an emergency guardian or an emergency conservator can be found at O.C.G.A. §§ 29-4-14 and 29-5-14.