

ADULT PROTECTIVE SERVICES

CHAPTER 1

2001 INTRODUCTION AND PURPOSE

This *Adult Protective Services Policy Manual* includes requirements and procedures, based on statewide implementation of Georgia law concerning adult protective services. The former Department of Human Resources established Adult Protective Services in 1981 and transferred Adult Protective Services from its Division of Family and Children Services to the Division of Aging Services on July 1, 2004.

A superior standard of practice depends upon an understanding of the authority and limitations under the state law, as well as sensitivity to the special needs and subtle issues that affect individuals in need of protection and those who become APS clients. The Georgia Department of Human Services, Division of Aging Services is responsible for Adult Protective Services in Georgia. Additionally, as the designated State Unit on Aging under the federal Older Americans Act (OAA) the Division of Aging Services is committed to elder abuse prevention and the OAA mandate for coordination with Adult Protective Services. Adult Protective Services is a public protective service agency as referred to in the OAA.

Georgia's Disabled Adults and Elder Persons Protection Act (DAEPPA), O.C.G.A §30-5-1, et. seq. applies to disabled adults (age 18 or older) and elder persons (age 65 or older) who are not residents of long-term care facilities. Elder persons need not have a mental or physical incapacity. (For access to DAEPPA, <http://www.lexis-nexis.com/hottopics/gacode> and type 30-5-1 in the search box. Once search results appear, click on *Chapter 5. Protection of Disabled Adults and Elder Persons* title, then click on section to view text of the law).

Adult Protective Services (APS) is designed to protect disabled adults (18 years of age and older) and elder persons (65 and older) who are unable to protect their own interests; who are harmed or threatened with harm through action or inaction by another; or who, through their own actions due to lack of knowledge, lack of required resources, or poor health, are physically or mentally impaired.

The purpose of Adult Protective Services is to investigate reports, on behalf of the Division Director, deter the ongoing maltreatment of disabled adults and elder persons and prevent its recurrence through the provision of protective services that may range from information and referral to court ordered guardianship. Under state law, protective services may not be provided to any person who does not consent to such services or who, having consented, withdraws such consent. Adult Protective Services may petition for guardianship if an individual appears to lack capacity and it is necessary for the protection of an adult.

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Adult Protective Services are those services necessary to protect disabled adults and elder persons from abuse, neglect or exploitation. Such services shall include but not be limited to evaluation of the need for services and mobilization of essential services on behalf of the disabled adults or elder persons.

Adult Protective Services are intended to:

- Reduce further deterioration in the client's situation;
- Protect the rights and resources of adults unable by reason of physical or mental disability to protect themselves;
- Arrange a protected environment in which the risks of threatened harm or danger are reduced or removed; and
- Enable adults to manage their own affairs to the extent possible.

2001.1 LEGAL BASIS AND FUNDING

The Disabled Adults and Elder Persons Protection Act, O.C.G.A. §§ 30-5-1, et seq., is the legal authority for Adult Protective Services, provided by the Department of Human Services, through its Division of Aging Services. Adult Protective Services receives federal funds from Title XIX (Medicaid) and Title XX (Social Services Block Grant) as well as state funds through the DHS Division of Aging Services.

2001.2 RESPONSIBILITIES, FUNCTIONS AND DUTIES OF APS

The Georgia Department of Human Services, Division of Aging Services, Adult Protective Services is responsible for:

- Providing a mechanism by which reports of abuse, neglect, and exploitation of disabled adults and elder persons not living in long-term care facilities may be made;
- Receiving and investigating all reports in a prompt and thorough manner;
- Assessing an adult's capacity to understand the situation and evaluating the degree of danger and continued risk present;
- Providing protective services to disabled adults and elder persons, directly or arranging for the services needed, to prevent or alleviate further maltreatment (abuse, neglect or exploitation);
- Maintaining records pertaining to Adult Protective Services;

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- Honoring an individual's right to self-determination and using the least restrictive alternative in the provision of protective services;
- Coordinating with other agencies, conducting public awareness activities on the issues of adult and elder abuse; and maximizing community resources for APS clients;
- Coordinating and collaborating with staff of other agencies, services, and community resources whose efforts are directed at protecting adults from A/N/E; and
- Seeking guardianship, conservatorship or court ordered services when there is risk to life and the client lacks decision-making capacity.

2001.3 PERSONS ELIGIBLE FOR ADULT PROTECTIVE SERVICES

- Disabled adults (age 18 and over) and elder persons (age 65 or older), present in Georgia, who are not residents of long-term care facilities, who are the subject of a report of adult abuse under the Disabled Adults and Elder Persons Protection Act (DAEPPA) O.C.G.A §30-5-1, et. seq.
- Each adult 'in need' of protective services that meets APS criteria.
- Persons receive Adult Protective Services (APS) "without regard to income" (WRTI). The source and amount of a person's income and/ or resources have no effect on eligibility for APS.
- Verification of citizenship is not required for adult protective services pursuant to the U.S. Department of Justice, Attorney General Order 2353-2001 as referenced in the Georgia Security/Compliance Immigration Act, O.C.G.A. §50-36-1, et seq.

2001.4 GUIDING PRINCIPLES IN APS

Adult Protective Services is client focused, individualized, and based on the social work model of problem solving. The following principles, values and beliefs outline APS philosophy regarding clients in Georgia and nationally.

These principles guide the practice and intervention by APS to protect the rights and well being of at-risk disabled adults and elder persons:

1. Each person/each case is unique.

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2. The vulnerable adult has a right to autonomy and is our primary client -- not the community or the family.
3. Each client has a right to self-determination and is in control of decision-making
4. Consent is required for ongoing protective services and an adult is considered to be capable of making his/her own decisions unless the court has ruled otherwise.
5. Each client is presumed to be "mentally competent".
6. Services will be the least restrictive possible for the client; more intrusive interventions, such as institutionalization or guardianship, will be a last resort and will include due process.
7. An adult also has the right under law to be protected when he or she is unable to protect him or herself by reason of physical or mental status.
8. Confidentiality is mandated by law and is important and must be respected.
9. Adult Protective Services encourages a multi-disciplinary approach.
10. The "wrong" intervention may be worse than none at all.

2001.5 DEFINITIONS

“Abuse” means the willful infliction of physical pain, physical injury, mental anguish, unreasonable confinement, or the willful deprivation of essential services to a disabled adult or elder person.

“A/N/E” means Abuse/Neglect/Exploitation, a way to state the global category of maltreatment of disabled adults or elder persons.

“APS Determination” means a statement referring to the outcome of the investigative findings (substantiated or unsubstantiated for A/N/E).

“APS Justification” refers to a statement documented by the caseworker indicating that the client is at risk and the need for ongoing APS.

“APS Ongoing Services” refers to APS services provided as a result of the justification that a disabled adult and/or elder person is at risk for further abuse, neglect or exploitation and that the adult has consented to ongoing APS services.

“APS Report” means reports of suspected abuse, neglect, self-neglect and/or exploitation of disabled or elder persons who are not residents of long-term care

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facilities, as defined in the Disabled Adult and Elder Persons Protection Act which meet criteria and are accepted for investigation.

“Assessment” means the analysis that is done of the facts through which decisions are made about risk, needs, strengths and continued APS intervention after the process of interviewing, observations and information gathering is completed.

“At Risk” means a caseworker determination that a person is a disabled adult or elder person and that there are factors present that indicate that A/N/E is likely to occur or recur. The disabled adult or elder person is in danger of harm or threatened with harm and is unable to protect him or herself, and has no one able to assist him/her. The caseworker determination is that ongoing Adult Protective Services are needed in the effort to protect the disabled adult or elder person and/or prevent the A/N/E from occurring or recurring.

“Caretaker/Caregiver” means a person who has the responsibility for the care of a disabled adult or elder person as a result of family relationship, contract, voluntary assumption of that responsibility, or by operation of law.

(Within the Aging Network, a caretaker is often referred to as “caregiver”)

“Case Plan” refers to a consensual written plan of action between the adult at risk and the protective service staff that forms the basis for the activities that the case manager, client, family and others follow in order to reduce risk, address safety issues and ensure basic needs are met.

“Court” means the probate court for the county of residence of the disabled adult or elder person or the county in which such person is found.

“Disabled Adult” means a person 18 years of age or older who is not a resident of a long-term care facility, as defined in Article 4 of Chapter 8 of Title 31, but who is mentally or physically incapacitated or has Alzheimer's disease, as defined in Code Section 31-8-180, or dementia, as defined in Code Section 49-6-72.

“Disabled Adult in Need of Protective Services” means a disabled adult who is not a resident of a long-term care facility as defined in Article 4 of Chapter 8 of Title 31 (O.C.G.A.) who is subject to abuse, neglect or exploitation as a result of that adult's mental or physical incapacity.

“Elder Person” means a person 65 years of age or older who is not a resident of a long-term care facility as defined in Article 4 of Chapter 8 of Title 31. (O.C.G.A.)

“Essential Services” means social, medical, psychiatric, or legal services necessary to safe-guard the disabled adult/elder person's rights and resources and to maintain the physical and mental well-being of the person. These services include, but are not limited to, the provision of medical care for physical and mental health needs,

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assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, and protection from health and safety hazards. These services shall not include the taking into physical custody of a disabled adult or elder person without that person's consent.

“Exploitation” means the illegal or improper use of a disabled adult or elder person's resources for another's profit or advantage.

“Intervention” means brief telephone intervention services such as referring the caller to other agencies or resources, when the report does not meet the criteria for APS. The CI Specialist provides counseling and information and referral services to meet the caller's needs.

“Investigation” means a prompt, thorough and systematic process to determine whether the alleged A/N/E is substantiated and to determine whether the disabled adult or elder person is in need of protective services and what services are needed. Investigations shall include a visit to the person and consultation with others having knowledge of the facts of the particular case. (O.C.G.A. § 30-5-5)

“Long Term Care Facility (LTCF)” means any Skilled Nursing Home, Intermediate Care Home, Personal Care Home (PCH), or Community Living Arrangement now or hereafter subject to regulation and licensure by the Department (O.C.G.A. §31-8-51)."

“Mandated Reporter” means any physician, osteopath, intern, resident, other hospital or medical personnel, dentist, psychologist, chiropractor, podiatrist, pharmacist, physical therapist, occupational therapist, licensed professional and counselor, nursing personnel, social work personnel, day-care personnel, coroner, medical examiner, employee of a public or private agency engaged in professional health related services to elder persons or disabled adults, employee of a financial institution or law enforcement personnel having reasonable cause to believe that a disabled adult/elder person has had a physical injury or injuries inflicted upon him, other than by accidental means, by a caretaker or has been neglected or exploited by a caretaker. Note: The Long Term Care Ombudsman is not a mandated reporter.

“Neglect” means the absence or omission of essential services to the degree that it harms or threatens to harm the physical or emotional health of a disabled adult or elder person.

“Representative Payee” means a person or other entity that manages an individual's Social Security, SSI and or Railroad Retirement benefits when an adult is determined unable to manage this function without assistance.

“Priority Designation” means APS referrals that are determined to be high priority or high risk. APS Central Intake determines (after review of circumstances, and upon professional judgment) if a report is potentially high priority/high risk.

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“Reasonable Cause to Believe” means a basis for a judgment that rests on specific facts, either directly observed or obtained from reliable sources, that supports a belief that a particular event probably took place or a particular condition probably exists.

“Self Neglect” means the result of an adult's inability, due to physical and/or mental impairments or diminished capacity, to perform essential self-care tasks including: providing essential food, clothing, shelter, and medical care; obtaining goods and services necessary to maintain physical health, mental health, emotional well-being and general safety; and/or managing financial affairs.

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

“Unsubstantiated” refers to 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 of the evidence that abuse, neglect and/or exploitation has occurred against the disabled or elder adult who is the subject of the APS report.

“Ward” means an adult for whom a guardian or conservator has been appointed by a probate court.

2001.6 STRUCTURE OF ADULT PROTECTIVE SERVICES

Requirements:

The Director of the Division of Aging Services administers and provides oversight of adult protective services in accordance with the Disabled Adults and Elder Persons Protection Act and through the Adult Protective Services Section. All state level and field operations are managed by the Section Manager for Adult Protective Services. The Division and its APS Section provide statewide program management and development. The Adult Protective Services Central Intake Unit is housed at the State Office. **All APS reports are received by Central Intake.** Field operations consist of a regional approach that mirrors the 12 planning and service areas (PSAs) for the Division of Aging Services. The PSA regions are further organized into 5 APS districts. District management and supervision at the field level. Regional Supervisors have direct responsibility for supervision of Case Management staff.