Attachment A

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2.25.19 HB19-1063 Information sharing between CPS & APS
Senate Judiciary Committee

1. Yesterday one of Colorado's great champions Carrie Ann Lucas, disability activist and lawyer, was taken from us too early, just 47 years old. Her work in assuring fair assessment from Child Protective Services for parents is critical to remember.

- HB19-1063 allows open information sharing between the Child Protective services (CPS) and Adult Protective systems (APS) in Colorado.
- An APS investigator could go back into CPS records at their own discretion with no oversight.
- This expands the investigative power of Adult protective services.

2. This bill targets most 4 groups of very vulnerable citizens:

   A. Coloradans with intellectual and developmental disabilities (IDD),
   B. Disabled parents and HIV/AIDS survivors
   C. People of color who often cannot afford private counsel
   D. Lower income residents who cannot afford own counsel

3. Unfunded state mandate of a "forever look back" for county APS units.

   A. The CDHS attorney general interpreted the intent of the legislature for HB17-1284 Data System Check For Employees Serving At-risk Adults to mean that counties must do APS investigations back in history, forever, to birth.
   B. Several counties had their attorneys review the statute and they disagree with the Assistant AG and CDHS opinion/interpretation.

4. This bill is unnecessary for its stated intent.

   A. There is already a way to information share between APS and CPS: ask a judge with GOOD REASON to for permission!
   B. The real intent is to force the expansion the investigatory power of APS from State to counties and rip apart people from loved ones.
   C. There is a financial incentive by guardians, court visitors and attorneys to bill and drain trust funds.
   D. Please see the attached documents from Assistant AG and CDHS.
   E. Please vote no.

COLORADO
Adult Protective Services
Division of Aging & Adult Services

Office and Division: OCAI, Division of Aging and Adult Services	Number: OM-AAS-2018-0007
Program Area: Adult Protective Services (APS)	Issue Date: August 27, 2018
Title: APS Practice Alignment with Statute and Rule	Office Director: Mark Wester
Memo Type: Operation Memo	Division Director: Mindy Gates
Pertinent State/Federal Statute and/or State/Federal Rule: 12 CCR 2518-1, Volume 30	Expiry Date: October 1, 2021
Outcome: Counties will need to update business practices related to the investigation of mistreatment and self-neglect of at-risk adults to fully comply with statute and rule.	Effective Date: October 1, 2018
Key Words: APS, Statute and Rule Alignment	

Intended Recipients: This communication has been sent to all county human service directors. Please forward pertinent information on to staff members as you deem necessary.

Purpose: The purpose of this memo is to provide guidance to counties on the requirement to align practice with Adult Protective Services (APS) statute and rules.

Action: County departments must investigate all reports that involve mistreatment or self-neglect of an at-risk adult.

Background: As a result of HB17-1284, certain practices must be modified to ensure alignment with statute and rules.

Rule requires county departments to investigate any report involving mistreatment or self-neglect of an at-risk adult (Section 30.500). In prior years, this requirement was not applied to all reports to allow county departments to prioritize limited resources for clients who were in unsafe situations. That is, some counties chose to screen out reports of mistreatment or self-neglect if the concern being reported had been resolved prior to making the report to APS or the county deferred the investigation to another agency. For example, if a report was made that a nurse in a long-term care facility mistreated a resident and was fired by the facility, a county APS program may have screened this report out rather than investigated because there was no "current" mistreatment. Another example is an allegation of mistreatment in a day program for adults with intellectual and developmental disabilities which, under previous practice, may have been screened out and referred to the Community Centered Board. Counties may no longer screen out these types of reports and others that involve mistreatment or self-neglect of an at-risk adult. Beginning October 1, 2018, county departments must screen in and investigate all reports that involve mistreatment or self-neglect and an at-risk adult.

Information being conveyed: The purpose of this memo is to clarify that county departments are required to investigate all reports that meet criteria for investigation: 1) there is reported mistreatment

or self-neglect and, 2) the adult is or is likely an at-risk adult. Rule does not allow for cases to be screened out or closed without the completion of, or documented attempts to complete, an investigation. In order to come into compliance with statute and rule, the APS program may no longer limit investigations to "current" allegations and must conduct investigations regarding all new reports of mistreatment and/or self-neglect of at risk adults, based upon the definitions within APS statute (Title 26, Article 3.1) and rules (12 CCR 2518-1, Volume 30), regardless of whether or not mistreatment is occurring at the time of the report to APS. Screen out of such reports will not be appropriate based upon alleviation of the mistreatment by other agencies and/or supports prior to APS involvement, because another agency might also be conducting an investigation, or because the adult has passed away.

Section 26-3.1-103, C.R.S., requires county departments to evaluate all reports, and while this section does not explicitly refer to an investigation, the APS program rules and regulations, authorized by Section 26-3.1-108(1), C.R.S., do require the investigation. These rules state, "The county department shall conduct a thorough and complete investigation into the allegations" that includes "reasonable efforts to interview the client, witnesses, collateral contacts...and other persons who can provide relevant investigative evidence or context." (Section 30.510.A) Additionally, Section 26-3.1-111, C.R.S. that was added with HB17-1284 further defines the requirement for APS to investigate and make findings on reports of mistreatment. This section widened the focus for the APS program from identifying mistreatment of at-risk adults to the prevention of future mistreatment by listing individuals who have a documented history of mistreatment in CAPS. Finally, while rules currently allow for "phone collaboration" with various professionals (Section 30.430,E), these rules do not absolve a county department of its obligation to investigate each report and make a finding.

State APS recognizes that there may be difficulties investigating allegations that occurred many months or years prior to the report being made to APS or when the client has passed away. For example, employees may no longer work at a facility where an allegation occurred, witnesses may not remember the incident, the client may have passed away before the caseworker had a chance to interview or assess the client, or documentary evidence, such as employee schedules or care plans, may no longer be available. However, the county department must attempt to investigate and if unable to complete any of the steps of an investigation outlined in rule, must document the attempts to complete the investigation. For example, if the caseworker is unable to locate a collateral witness, the caseworker should document the steps taken to try to locate the collateral witness.

State APS also recognizes that, at times, it may be difficult to determine whether an adult was "at-risk" at the time of the mistreatment if the mistreatment being reported occurred years earlier or if the client has passed away. County departments will need to contact the reporting party for additional information to make this determination, when necessary. For example, the county will likely need to ascertain more information regarding the client's condition at the time of the alleged mistreatment. If the adult was not "at-risk" at the time of the mistreatment, the report would be screened out.

The following are some examples of reports of allegations of mistreatment that require investigation, in which mistreatment is no longer occurring:

- APS received a report alleging exploitation of an at-risk adult by a home health nurse that occurred six months prior to the report to APS. The home health nurse was terminated from employment and a new caretaker assigned prior to the report being made to APS. APS must

screen in the report, conduct an investigation in order to determine a finding, assess the client for other needs, and provide services to mitigate those needs.

- APS received a report from a hospital that an adult with advanced dementia was recently admitted showing signs of physical abuse. The hospital plans to discharge the patient to a long-term care facility once the adult's medical care needs have been treated. APS must screen this report in and investigate the allegations, make a finding, assess for other needs for the adult, and provide services to mitigate those needs.
- APS received a report from a facility alleging caretaker neglect of an at-risk adult and the client passed away either prior to the report being made to APS or after APS received the report. APS must still investigate the allegation of caretaker neglect to make a finding. The finding must be based on whether the allegation of neglect occurred and not on whether the neglect caused the client's death. It is not the responsibility of the caseworker to determine cause of death; caseworkers are determining whether mistreatment occurred. If the mistreatment did occur and caused the client's death, this would be reflected in the severity level determination.

State APS recognizes that when an investigation is in progress and the client has passed away, there is no longer an ability to complete a monthly contact. To manage this, the caseworker will complete the Date of Death on the case record as soon as it is learned the client has passed away. This will allow State APS to exclude these cases from C-Stat data for Timely Monthly Contacts, from relevant dashboards, and the timeliness for monthly contacts on the Case Detail Page. If this date is not completed, the case *will be* included for C-Stat data, dashboards, and timeliness and will show as untimely for the county department. A "monthly contact" note is not required for cases in which the client is deceased and the investigation is still ongoing. Additionally, if the client has passed away prior to the report or between receipt of the report and the county department's initial response, the caseworker should select "Client Deceased" in the Initial Response Type field.

The APS Task Group, convened through the Aging and Adult Sub-PAC and approved by PAC, reviewed and provided feedback to the Department staff on updated Screen Out and Case Closure Reasons tip sheets to better align with these practice changes (attached to this memo). The tip sheets become effective and the changes will be made in CAPS on the effective date of this memo.

Pursuant to C.R.S. Title 26, Article 3.1 and 12 CCR 2581-1 county department APS programs are required to investigate allegations of mistreatment and self-neglect of at-risk adults. Therefore, county departments must immediately begin to modify business practice to ensure that all reports of suspected mistreatment or self-neglect of an at-risk adult are investigated. It is expected that all county departments have updated business practices to fully align with statute and rule no later than October 1, 2018.

Supersedes: Not Applicable

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COLORADO
Adult Protective Services
Division of Aging & Adult Services

Tip Sheet: Screen Out Reasons

Please note that these changes/updates will be implemented in CAPS on October 1, 2018.

Screen Out Reason	Use When:	Do NOT use When:	Examples
Does Not Meet Criteria As An At-Risk Adult	The report does not contain information that indicates the adult is an at-risk adult or the client was determined not an at-risk adult in a prior case through a thorough assessment and there is no new information that the client may now be an at-risk adult. Enhanced Screening questions must be used when taking the report.	The report contains information or identifies risk factors consistent with an at-risk adult. The screener did not use the enhanced screening questions and/or the RED team did not follow up with the RP to gather additional information, if applicable.	*A report is made about an adult who is homeless and is being discharged from the hospital without stable housing. There are no indicators that adult is an at-risk adult.* *A report is received from Law Enforcement regarding an adult who is 70 years old but has no impacts to his cognition or his ability to obtain services necessary for his health and safety.*
No Mistreatment	There is no allegation of mistreatment or self-neglect.	The report alleges mistreatment or self-neglect of an at-risk adult. The alleged mistreatment has not been investigated.	*There is no mistreatment.* *An individual with mental illness is able to meet essential health and safety needs and is choosing not to take their medication.*
Current Open Case	A county already has an open APS case for the client. A note must be made indicating that the new allegation will be added to the open case.	The report belongs to another county. In these situations, the report will need to be transferred to the appropriate county. When the county does not currently have an open APS case.	*The client already has an open case with APS; any new information in this report will be noted in the open case and investigated. Note should be made in the open case, referencing the new report number.*

Screen Out Reason	Use When:	Do NOT use When:	Examples
Current Alleged Incidence Investigated in Prior Case	The alleged mistreatment or self-neglect was previously investigated and there is no new information that could change the investigative finding. The allegation must be regarding the same incidence of mistreatment or self-neglect.	The report contains an additional allegation(s) and/or a decline in abilities since the last allegation. The allegation is regarding a similar but separate incidence of mistreatment or self-neglect.	*APS investigated an allegation of exploitation in which $300 was withdrawn from the client's bank account by their adult child. Following case closure, an additional report by the same or a different reporter is made regarding the same instance in which the adult child withdrew the same $300. The new report does not contain information or leads that could change the investigative finding.*
Client has a History of Refusing Services or Being Non-Compliant with Services	A thorough assessment in a previous case showed a client to be able to make decisions and the client has a history of refusing services or being non-compliant with services. This reason should be utilized only in cases of self-neglect.	There are new allegations that have not been investigated previously or the report indicates a recent decline in abilities and/or change in circumstances. The client has not been assessed by APS in the last 6 months. CAPS does not contain information that the client is competent.	*A report is made on a client due to non-compliance with in-home care recommendations. CAPS has documentation that supports that the client is competent and refused all services offered in previous APS intervention attempts. No additional concerns or changes to the client's conditions were reported.*
Not Enough Information to Conduct investigation	The report does not have enough information to contact the client, reporting party, witnesses, or other collaterals and there is no other information to indicate where contact information can be found.	The county has not looked in other data systems to locate the client. The screener did not document efforts to obtain client's whereabouts. Investigations must be completed when possible, even if the client does not have a residence.	*Client is transient and there is no way to obtain information for the client or any collaterals or witnesses, and there are no other leads to follow for an investigation.*

Tip Sheet: Closure Reasons and When to Create an Assessment or Case Plan in CAPS

Please note that these changes/updates will be implemented in CAPS on October 1, 2018.

	Use When:	Do NOT Use When:	Requires Initial Assessment	Requires Final Assessment	*Requires Case Plan and Services
APS Intervention Complete	APS intervenes, completes an investigation and assessment, and develops a case plan. APS works to implement services and/or works with others to implement services that mitigate risk, even if unable to mitigate all needs.	The client dies. All services are ineffective. The services needed to mitigate all significant impacts are unavailable in the community or to the client. See other closure reasons available for these situations.	Yes	Yes	Yes
Services Ineffective	A client consents to services and/or APS attempted to intervene with no success in mitigating risk, including when a client interferes with the provision of the services. Documentation must support why all identified services were ineffective and that alternative interventions have been exhausted.	You are not able to support that alternative interventions have been exhausted. You were able to successfully implement at least one service to mitigate risk. Use APS Intervention Complete. The services needed are not available in the community or to the client. Use Services Not Available.	Yes	Yes	Yes
Services Not Available	All service(s) needed to improve safety are not available in the community and/or to the client. For example, if the client needs HCBS services and there are no HCBS providers serving the client's area or the providers would not serve the client due to the home's condition or the client's behaviors. Or, the client needs a specialized facility, due to client behaviors or other unique needs, and there are no available facilities in the state. Documentation must support that alternative interventions have been exhausted. This should be a rare closure decision.	You are not able to support that alternative interventions have been exhausted.	Yes	No	Yes

	Use When:	Do NOT Use When:	Requires Initial Assessment	Requires Final Assessment	Requires Case Plan and Services
Adult Refuses Services	Investigation and assessment have been completed, and a case plan has been developed in order to address identified unmitigated needs. The client has refused all services, and has demonstrated capacity through thorough assessment of client's cognition, behavioral concerns, and medical assessment status areas. Documentation must support the client's ability to refuse consent.	The client has cognitive deficits that compromise the client's ability to understand safety and health needs to the point that they do not have decisional capacity. If unable to support the client's ability to consent do not use this closure reason. Instead, the steps at rule 30.620.C must be completed. The client accepts some, but not all, identified service needs. Use APS Intervention Complete.	Yes	No	Yes
Investigation Complete- No Identified Needs.	The investigation and assessment were completed and there are no identified significant unmitigated needs.	The client has a significant impact on a risk factor and there is no mitigating service in place. You intervene and mitigate any risk factor(s), whether significant or minor impact.	Yes	No	No
Assessment Determined Not an At-risk Adult	The case has been assigned but upon assessment, the client does not meet criteria as an at-risk adult. A face-to-face visit and an assessment must have been completed, to minimally include the client's strengths and needs in the ADLs/IADLs, Cognition, Behavioral Concerns, and Medical status areas.	A *face-to-face* visit and assessment have not been completed.	Yes	No	No
Client Refused Contact	APS was unable to complete a full assessment because the client either refused all contact or refused further contact after a brief initial client visit. Documentation must outline all steps taken to attempt to begin or complete the assessment, such as requesting another visit with the client, attempting to build rapport, requesting assistance from law enforcement, etc. An investigation must be completed by contacting collaterals, even if the client refuses contact.	You were unable to locate the client. You were able to complete the assessment, but the client refused services.	Yes, if an assessment was started.	No	Yes, if a Case Plan was started.
Death	Closing the case due to the death of the client. Complete the investigation prior to closing the case.		Yes, if an assessment was started prior to client's death.	No	Yes, if death occurred after 45 days from date report received.

	Use When:	Do NOT Use When:	Requires Initial Assessment	Requires Final Assessment	Requires Case Plan and Services
Moved Out of State	The case is closed because the client moved out of Colorado before you were able to complete a final assessment or implement services. If the client may still be in need of protective services, call the APS program in the state where the client relocated to make a report.	A client is placed in a facility or with family out of state and it concludes APS Intervention. Complete a final assessment and use APS Intervention Complete. The client moved to another Colorado county. In this situation, the case should either be closed if there are no longer protective needs or transferred to the appropriate county. When transferring to another county, the case must be fully updated prior to transferring and a courtesy call must be made to the receiving county supervisor.	Yes, if an assessment was started prior to client's move.	No	No (but CAPS will allow).
Client Incarcerated	The client will be or has been sentenced to a jail or correctional facility for longer than 30 days, and the incarceration prevents APS from providing protective services. A thorough investigation must be completed prior to case closure.		Yes, if an assessment was started.	No	Yes, if a Case Plan was started.
Unable to Locate	The client cannot be located **OR** APS was working with the client long enough for an assessment to be completed, but after sufficient attempts the client can no longer be located. In these cases, an investigation must be completed by contacting all collateral contacts and gathering all evidence possible.	An investigation has not yet been completed.	Yes, if an assessment was completed.	No	Yes, if a case plan was completed.

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State Services Section

May 4, 2018

CONFIDENTIAL MEMORANDUM- ATTORNEY CLIENT WORK PRODUCT

TO: Mindy Kemp

FROM: Virginia R. Carreno, Assistant Attorney General

CC: Tanja E. Wheeler, First Assistant Attorney General; Ann Pogue, Assistant Attorney General

RE: APS CAPS Investigation Questions

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1) At what point is a mistreatment no longer current or "viable" and therefore would not require an APS investigation?

A report is always viable when it involves the mistreatment of an at-risk adult. In these situations, APS must investigate all reports, no matter when the mistreatment occurred. APS has been charged with the provision of "protective services" to prevent the mistreatment, self-neglect, or exploitation of an at-risk adult. § 26-3.1-101(9), C.R.S. (2017). Because the statute states "an adult", as opposed to "the adult that is the subject of the mistreatment", APS should interpret the statute more broadly to mean at-risk adults generally.

As pointed out in prior advice, the current APS statutory language and the legislative intent of HB 17-1284 both support a broad interpretation of APS's duty to provide "protective services." Specifically, *"[i]t is the intent of the general assembly to minimize the potential for employment of persons with a history of mistreatment of at-risk adults in positions that would allow those persons unsupervised access to these adults. As a result, the general assembly finds it necessary to strengthen protections for vulnerable adults by requiring certain employers request a CAPS check..."* § 26-3.1-111(1), C.R.S. If APS is aware of prior reports of mistreatment of an at-risk adult, no matter how dated, APS has a duty to investigate. Failure to investigate could result in known perpetrators continuing to work with other at-risk adults in the community. APS could also face potential liability where a known or

alleged perpetrator harms an at-risk adult after APS failed to investigate a prior report. Arguably, if APS investigates these types of reports and substantiates them, APS will be protecting other at-risk adults as required.

Additionally, if APS fails to screen-in reports of abuse under some situations and not others, there are also due process concerns. For example, if two different people are accused of the same type of abuse and in one instance the at-risk adult dies (unrelated to the allegations of abuse), it would not comport with due process for APS to treat these alleged perpetrators differently when they are accused of the same type of abuse. An alleged perpetrator should not be able to benefit from something like a death or relocation of the victim.

However, there may be situations where APS investigates a report of prior mistreatment and is unable to gather evidence due to difficulties because of the passage of time. In these types of situations, APS may find that the report is unsubstantiated or inconclusive based on lack of evidence.

Finally, if APS receives a new report of alleged abuse, based on prior abuse which law enforcement has already investigated and resolved at the time the mistreatment occurred, APS may rely on those reports in the ultimate determination of whether to substantiate, rather than start its own new investigation. Where there is concern that a new investigation may traumatize an at-risk adult, APS should use the same process it uses when determining whether to interview an at-risk adult where the abuse is ongoing.

2) ***While rare, APS does occasionally receive reports at the time the adult dies...or the adult dies within a few days of APS receipt of the report. It would not appear that APS would have an investigative role into the death of an at-risk adult as our mission is to provide protective services. Can you please confirm whether that is the case according to current rule and statute?***

The same analysis discussed in question #1 is applicable here. Although APS is not law enforcement, APS must still determine whether to substantiate the report. In making this determination, it is reasonable for APS to rely on law enforcement investigations already conducted. This is consistent with the APS statute's confidentiality provisions. APS can disclose reports of mistreatment without a court order: in specific circumstances when there is or has been a criminal case; the disclosure is necessary for the coordination of multiple agencies' investigation of a report; or for the provision of protective services to an at-risk adult. § 26-3.1-102(7)(b), C.R.S.

3) ***If the assessment/investigation determines that the adult is not an "at-risk adult", can the substantiated perpetrator in that case be reported to an employer during a CAPS check?***

No. APS is not authorized to substantiate or report abuse that was not inflicted on an at-risk adult. However, as described in response to question #1, the fact that the at-risk adult is deceased, or is no longer at-risk of being harmed by the alleged perpetrator does not mean the report should be screened out.

4) ***If a report has been investigated prior to July 1, 2018 and a new report on the same allegation, with no new information contained in the report, comes in after July 1st, should the county screen in and investigate again in order to ensure the perpetrator is added and available for a CAPS check?***

If APS has investigated and closed a report, APS should not open a second or subsequent report for the same allegations unless it receives new information that could change the results of the investigation and/or provision of services.

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State Services Section

December 18, 2017

M E M O R A N D U M

CONFIDENTIAL
ATTORNEY WORK PRODUCT

TO: Mindy Kemp

FROM: Ann Pogue

RE: APS Investigations Questions

Current APS Practice Regarding Investigations of Mistreatment and Self-Neglect

The current practice of county APS involves screening out cases, thereby not investigating the merits of a report of alleged mistreatment, abuse, neglect, or exploitation, if it is determined that the at-risk adult is not facing an "immediate risk." For example, the county APS would not conduct an investigation if the at-risk adult's family removed the at-risk adult from a facility where he or she was being mistreated because there would no longer be an immediate risk. This practice is inconsistent with statute, rules and regulations.

Pursuant to C.R.S. 26-3.1-103, a thorough evaluation must be completed to determine the current risk level of an at-risk adult. While the statute does not refer explicitly to the investigation conducted after a report of neglect or mistreatment is made to a county agency, the Department's rules and regulations do. The General Assembly gave the Department the authority to promulgate rules related to the investigation of mistreatment and neglect of at-risk adults in § 26-3.1-108(1), C.R.S. If a county department assesses a report, and makes a determination that the adult in question is an "at-risk adult"[1] and that the report involves "mistreatment"[2] or

[1] Defined in 12 CCR 2518-1 § 30.100 and § 26-3.1-101(1.5), C.R.S.
[2] Defined in 12 CCR 2518-1 § 30.100 and §26-3.1-101(7), C.R.S.

"self-neglect,"[3] the report shall be screened in and is determined to be a case. 12 C.C.R. 2518-1 § 30.420.F.[4] The rules are explicit that the county department shall conduct an investigation to determine findings related to allegations of mistreatment and neglect. *See* Section 30.520 (emphasis added). Further, the rule requires that the county department investigation shall include a "finding regarding the substantiation or unsubstantiation of the allegations," as well as a determination of "the identity of, and a finding related to, the perpetrator of the mistreatment." *See* Sections 30.520.A.7 and 30.520.A.8 (emphasis added). One of the current APS practices includes phone collaboration with various professionals in lieu of an investigation in some cases. It appears the basis for that practice is found in § 30.430.E. Sections 30.430.A through 30.430.E relate to the county department's determination of a timeframe and method by which it must respond to a report of alleged mistreatment or neglect based on the reported level of risk.[5] However, these sections do not absolve a county department of its obligation to investigate each case and make a finding.

APS Practices After the Implementation of House Bill 2017-1284

Any confusion regarding a county's obligation to investigate cases and make findings should be resolved with the enactment of House Bill 2017-1284. Section 26-3.1-111, C.R.S. says that:

> "It is the intent of the general assembly to minimize the potential for employment for persons with a history of mistreatment of at-risk adults in positions that would allow those persons unsupervised access to [at-risk adults]. As a result, the general assembly finds it necessary to strengthen protections for vulnerable adults by requiring certain employers to request a CAPS check by the state department to determine if a person who will provide direct care to an at-risk adult has been substantiated in a case of mistreatment of an at-risk adult."

With the codification of this language, the general assembly has widened its focus from identifying mistreated at-risk adults, to the prevention of future abuse of at-risk adults, by listing individuals who have a documented history of mistreatment

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[3] Defined in 12 CCR 2518-1 § 30.100 and § 26-3.1-101(10), C.R.S.

[4] All citations in this memorandum referring to Colorado Department of Human Services Regulations can be found at 12 CCR 2518-1. Accordingly, all further references to regulations will be by section number only.

[5] Section 30.430 is titled "Response Priority". The section discusses how quickly, and in which manner, caseworkers need to respond to a report after current risk level is assessed. While § 30.430.E. does say that "the county department may collaborate with other professionals or responsible family or supports to resolve the safety concerns," it does not indicate that an investigation should not take place, or that findings mandated by § 30.520.A and §30.520.A.7 do not need to be made.

in CAPS. If current county APS practices were to continue, many individuals that mistreat at-risk adults will not have documented histories of mistreatment or neglect reflected in CAPS. Additionally, the counties and Department will be acting in a manner that is contrary to the express intent of the General Assembly, opening both to potential liability. Moving forward, county APS workers must investigate all claims of mistreatment, and make appropriate findings, to comply with both statute and Department rules.

Possible Rule Changes to Make Investigative Policies and Procedures More Clear

Currently, there is confusion concerning the definition of "mistreatment," and whether that would include acts of mistreatment that have occurred in the past, as well as acts that are presently occurring. There is no language in the statute or Department rules that precludes a county department from investigating mistreatment that has occurred in the past. Although the date on which the mistreatment occurred could affect the course and result of an investigation, an investigation must still take place. To eliminate any confusion, the Department can add "that occurs at any time" or similar language, after "mistreatment," in both § 30.520.A and § 30.420.A.2.

Additionally, there is confusion surrounding the language in § 30.430.E. To make it clear that the language does not mean phone collaboration may take place in lieu of an investigation, the Department can remove the word "investigation" after "face-to-face" and replace it with "contact." Additionally, the Department can add a line prior to "Cases appropriate for phone collaboration...," that says "Although phone collaboration may be utilized, county departments are still obligated to complete the investigation pursuant to § 30.520 and make findings pursuant to § 30.520.A.7" or something similar.