

115 CMR 13.00: INCIDENT REPORTING

Section

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13.01: Scope and Purpose

The purpose of 115 CMR 13.00 is to establish the incident reporting requirements that apply to all offices of the Department, all providers, and all programs and services operated, licensed or contracted or otherwise funded by the Department.

13.02: Reportable Incidents

(1) A reportable incident is any event or occurrence in the life of an individual that must be reported to the Department. The categories of incidents that are subject to the reporting requirements of 115 CMR 13.00 include, but are not limited to, the following:

- (a) unanticipated or suspicious death;
- (b) inappropriate sexual behavior;
- (c) significant behavioral incident;
- (d) unexpected hospital visit;
- (e) fire;
- (f) suspected mistreatment;
- (g) theft;
- (i) missing person;
- (j) criminal activity;
- (k) transportation accident;
- (l) emergency relocation;
- (m) suicide attempt;
- (n) property damage;
- (o) victim of physical altercation; and
- (p) medical/psychiatric intervention not requiring a hospital visit.

(2) The Department may modify the categories and definitions of reportable incidents at its discretion, and shall periodically issue such categories and definitions in incident management guidelines.

13.03: Reporting Requirements

- (1) Providers shall report to the Department:
 - (a) any reportable incident involving an individual for whom the provider was responsible for providing care and/or supervision at the time of the incident;
 - (b) any reportable incident that occurs in the provider's program which is licensed or certified by the Department and involves an individual whose services are not funded by the Department, or who are not eligible for DDS services;
 - (c) any reportable incident involving a child or the primary caregiver of a child participating in the Children's Autism Home and Community Based Waiver Program;
 - (d) any reportable incident designated by the Department as requiring a major level of

review that occurs while an individuals younger than 18 years old is receiving a service funded by the Department;

(e) any incident involving a fatality, near fatality, or serious bodily injury of a child receiving services from the Department. A fatality includes deaths resulting from automobile accidents, abusive head trauma, gunshot wounds and drug overdose. Serious bodily injury means bodily injury involving a substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty;

13.03: continued

(f) any reportable incident that is brought to the provider's attention that involves an individual who, at the time of the incident, was under the care and/or supervision of a person who is not an employee, volunteer or subcontractor of the provider, as soon as the provider learns of the incident.

(2) Department staff (who are not providers) are required to report incidents, as defined in 115 CMR 13.00, which occur when the individual was not in a Department service at the time it occurred as soon the incident is brought to their attention.

(3) Persons acting as support brokers to individuals receiving self-directed services shall report incidents involving the individual as soon as the incident is brought to their attention.

13.04: Notice and Reporting

(1) Incidents shall be designated as requiring either a minor or major level of review in accordance with the incident management guidelines issued by the Department.

(2) Providers shall give verbal notification to the Area Office of a reportable incident requiring a major level of review as soon as the incident is discovered.

(3) Providers shall submit an Initial Incident Report to the Department and a Final Incident Report in the form and manner directed by the Department and within the timelines specified by the Department.

(4) An incident is closed when the provider and Regional or Area Office approve the Final Incident Report.

(5) An individual's guardian(s) shall receive verbal notification that an incident requiring a major level review involving the individual occurred as soon as reasonably practicable after the incident is discovered. Notification of incidents requiring a minor level review shall be made to the guardian(s) in accordance with the preferences expressed by the guardian(s) documented in the individual record. Guardians may request written notification regarding any incident, and shall have access to any Incident Report when finalized.

(6) For incidents initially designated as requiring a major level of review, providers shall complete and submit a paper or electronic Incident Report to the Department within one business day. For incidents initially designated as requiring a minor level of review, providers shall complete and submit a paper or electronic Incident Report to the Department within three business days. Providers shall report incidents requiring a major level or minor level of review to the Department in paper or electronically in accordance with 115 CMR 13.00 or as otherwise set forth in the Department's incident management guidelines.

13.05: Content of Incident Report

(1) The Initial Incident Report shall include, but not be limited to, the following:

- (a) the individual involved;
- (b) provider(s) involved;
- (c) date, time, and location of the incident, if known;
- (d) the incident category;
- (e) description of the incident;
- (f) immediate action taken to protect health, safety and welfare;

- (g) people involved in the incident including any eyewitnesses to the incident.
- (2) The Final Incident Report shall include at least the following:
- (a) additional action(s) to be taken;
 - (b) the responsible party(ies) and the target completion date(s) for action(s); and,
 - (c) the Initial Incident Report and any additional information gathered after filing of the Initial Incident Report.

13.05: continued

- (3) The Department may modify the contents required for inclusion in incident reports at its discretion, and shall identify the required contents in incident management guidelines periodically issued by the Department.

13.06: Additional Reporting Responsibilities

- (1) Nothing in 115 CMR 13.00 shall relieve any person from their responsibility as a mandated reporter under federal or state law.
- (2) When a mandated reporter, including a Department or provider employee, has reasonable cause to believe that an individual has been abused, neglected or exposed to a serious risk of harm, whether by act or omission including non-consensual sexual activity, or any matter within the scope of 115 CMR 9.05: *Scope of Responsibilities of the Department's Investigations Division*, he or she, in addition to filing an incident report, shall:
 - (a) report the matter to the Disabled Persons Protection Commission (DPPC).
 - (b) refer the matter to the provider's human rights committee when the incident affects the rights and dignity of an individual who is 18 years of age or older.
 - (c) notify the Office of the Child Advocate when the incident involves a fatality, near fatality, or serious bodily injury of an individual younger than 18 years old.
- (3) Where the head of the provider has reasonable cause to believe that a crime has been committed in connection with a reportable incident, he or she shall file a report with the local police, and shall file a report with the district attorney by reporting the incident to DPPC.

REGULATORY AUTHORITY

115 CMR 9.00: M.G.L. c. 19B, §§ 1, 10, and 14; c. 123B, §§ 2 and 14 and c. 19C.