

## **CHAPTER 3**

- 3.1 Service and Support Administration (Case Management)**
- 3.2 Preadmission Screening and Resident Review (PASRR)**
- 3.3 Major Unusual Incidents and Unusual Incidents to Ensure Health, Welfare, and Continuous Quality Improvement**

### 3.1 SERVICE AND SUPPORT ADMINISTRATION

#### A. Guiding Principles of Service and Support Administration

The Board Service and Support Administration (SSA) will support individuals in determining and pursuing life goals; work with families, guardians, and natural supports to access, provide and/or enlist support-needed in life areas,

#### B. Eligibility for Service and Support Administration

1. Eligibility for Service and Support Administration shall be consistent with provision outlined in OAC 5123: 2 – 1- 02. The Board shall provide Service and Support Administration to each individual three years of age or older who is eligible for Service and Support Administration, upon request of the individual/advocate.
2. The Board shall provide Service and Support Administration to each individual receiving home and community-based services, regardless of age.

#### C. Qualifications for Service and Support Administrators

Individuals employed as Service and Support Administrators must be able to maintain certification as outlined in OAC 5123:2-5-02 .

#### D. Functions of Service and Support Administration

1. The Board shall identify a service and support administrator for each enrollee. The service and support administrator shall be the primary point of coordination. The enrollee will have the opportunity to request a different service and support administrator from the Board.
2. Upon enrollment, and at least every twelve months thereafter, coordinate an assessment of the enrollee that considers what is important to and for the enrollee; known and likely risks, the enrollee's path to community employment; what is and is not working in the enrollee's life. The assessment shall identify supports that promote rights; self-determination; physical well-being; emotional well-being; material well-being; personal development; interpersonal relationships; social inclusion.
3. Using person-centered planning, develop, review and revise the individual service plan and ensure that the individual service plan: reflects results of the assessment, includes services and supports to achieve person-centered outcomes, integrates all sources of services and supports, and reflects services and supports that are consistent with efficiency, economy, and quality of care.
4. Establish a recommendation for and obtain approval of the budget for services based on the individual's assessed needs and preferred ways of meeting those needs.
5. Through objective facilitation, assist the enrollee in choosing providers.

6. Secure commitments from providers to support the enrollee in achievement of his or her desired outcomes.
7. Verify by signature and date that prior to implementation each individual service plan indicates the provider, frequency and funding source of each service, and specifies which provider will deliver each service across all settings.
8. Establish and maintain contact with the team as frequently as necessary to ensure that effective communication and coordination takes place among the individuals and members of the team.
9. Review and revise the individual service plan at least every twelve months or as necessary.
10. Serve as the Medicaid Local Administrative Authority for all Board-authorized Medicaid services.
11. Provide the enrollee with written notification and explanation of the enrollee's right to use the administrative resolution of complaint process set forth in rule 5123:2-1-12 of the Administrative Code if the individual service plan results in reduction, denial or termination of a service other than a service funded by a home and community-based services waiver or targeted case management.
12. Take actions necessary to remediate any immediate concerns regarding the enrollee's health and welfare.
13. Service and Support Administrators will maintain case notes to reflect the services provided to individuals. This documentation shall contain, at a minimum, the following:
  - (a) Date and time of service
  - (b) Name of the person for whom the service is delivered
  - (c) A narrative description of the service and location of service
  - (d) Service and Support Administrator's name (typed or printed), title, signature, and initials to correspond with each entry's identifying or electronic signature.

E. Minimum Record Requirements

1. Identifying data
2. Date of referral/request for Service and Support Administration
3. Type of services requested and provided
4. Evidence of eligibility
5. Current plan of service
6. Information identifying guardianship, trusteeship, or protectorship
7. Personal financial information, when appropriate
8. Major unusual incident summaries
9. Emergency information
10. Release and consent forms
11. Case notes

Information contained in these records may be released upon consent of the individual/guardian in accordance with Board policy.

### **3.2 PREADMISSION SCREENING AND RESIDENT REVIEW (PASRR)**

#### **PURPOSE**

To determine whether an individual is eligible for admission to a nursing facility or eligible to continue to receive services in nursing facility. APPLICABILITY

This policy applies to individuals who are seeking admission to a nursing facility who have indications of developmental disabilities, individuals who are residents of a nursing facility who have indications of developmental disabilities and persons acting on behalf of the applicants or residents.

#### **PREADMISSION SCREENING and RESIDENT REVIEW**

Preadmission screening and resident review for developmental disabilities shall be conducted as defined in OAC 5123:2-14-01.

### **3.3 Major Unusual Incidents and Unusual Incidents to Ensure Health, Welfare, and Continuous Quality Improvement**

The Board is committed to insuring the health and welfare of individuals with developmental disabilities. This policy establishes the requirements for addressing major unusual incidents and unusual incidents and implements a continuous quality improvement process in order to prevent or reduce the risk of harm to individuals. The Board will insure compliance with Ohio Administrative Code (OAC) Section 5123:2-17-02 as well as all applicable sections of the Ohio Revised Code.

#### **Definitions**

- A. "Administrative Investigation" means the gathering and analysis of information related to a major unusual incident so that appropriate action can be taken to address any harm or risk of harm and prevent recurrence. There are three administrative investigation procedures (category A, category B, and category C) that correspond to the three categories of major unusual incidents.
- B. "Agency provider" means a provider, certified or licensed by DODD or a provider approved by the Ohio Department of Medicaid to provide services under the transitions developmental disabilities waiver, that employs staff to deliver services to individuals and who may subcontract the delivery of services. "Agency provider" includes a the Board while providing specialized services.
- C. "At-risk individual" means an individual whose health or welfare is adversely affected or whose health or welfare may reasonably be considered to be in danger of being adversely affected.
- D. "Common law employee" has the same meaning as in rule 5123-9-32 of the Administrative Code.
- E. "Developmental disabilities employee" means:

- 1) An employee of the department;
  - 2) A superintendent, board member, or employee of a county board;
  - 3) An administrator, board member, or employee of a residential facility licensed under section 5123.19 of the Revised Code;
  - 4) An administrator, board member, or employee of any other public or private provider of services to an individual with a developmental disability; or
  - 5) An independent provider.
- F. "Incident Report" means documentation that contains details about a major unusual incident or an unusual incident and shall include, but is not limited to:
- 1) Individual's name;
  - 2) Individual's address;
  - 3) Date of incident;
  - 4) Location of incident;
  - 5) Description of incident;
  - 6) Type and location of injuries;
  - 7) Immediate actions taken to ensure health and welfare of individual involved and any at-risk individuals;
  - 8) Name of primary person involved and his or her relationship to the individual;
  - 9) Names of witnesses;
  - 10) Statements completed by persons who witnessed or have personal knowledge of the incident;
  - 11) Notifications with name, title, and time and date of notice;
  - 12) Further medical follow-up; and
  - 13) Name or signature of person completing the incident report.
- G. "Incident tracking system" means DODD's web-based system for reporting major unusual incidents.
- H. "Independent provider" means a self-employed person or a common law employee who provides services for which he or she must be certified in accordance with rules promulgated by the department and does not employ, either directly or through contract, anyone else to provide the services.
- I. "Investigative agent" means an employee of the Board or a person under contract with the Board who is certified by DODD to conduct administrative investigations of major unusual incidents.
- J. "Major unusual incident" means the alleged, suspected, or actual occurrence of an incident when there is reason to believe the health or welfare of an individual may be adversely affected or an individual may be placed at a likely risk of harm, if such individual is receiving services through the developmental disabilities service delivery system or will be receiving such services as a result of the incident. There are three categories of major unusual incidents:
- 1) Category A
    - i. Accidental or suspicious death means the death of an individual resulting from an accident or suspicious circumstances.
    - ii. Exploitation means the unlawful or improper act of using an individual or an individual's resources for monetary or personal benefit, profit, or gain.

- iii. Failure to report means that a person, who is required to report pursuant to section 5123.61 of Ohio Revised Code, has reason to believe that an individual has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of such a nature as to reasonably indicate abuse, misappropriation, or exploitation that results in a risk to health and welfare or neglect of that individual, and such person does not immediately report such information to a law enforcement agency, a the Board, or in the case of an individual living in a developmental center, either to law enforcement or DODD. Pursuant to division (C)(1) of section 5123.61 of Ohio Revised Code, such report shall be made to DODD and the Board when the incident involves an act or omission of an employee of a the Board.
- iv. "Misappropriation" means depriving, defrauding, or otherwise obtaining the real or personal property of an individual by any means prohibited by Ohio Revised Code.
- v. "Neglect" means when there is a duty to do so, failing to provide an individual with medical care, personal care, or other support that consequently results in serious injury or places an individual or another person at risk of serious injury. Serious injury means an injury that results in treatment by a physician, physician assistant, or nurse practitioner.
- vi. Physical abuse means the use of physical force that can reasonably be expected to result in physical harm to an individual. Such physical force may include, but is not limited to hitting, slapping, pushing, or throwing objects at an individual.
- vii. Prohibited sexual relations means a developmental disabilities employee engaging in consensual sexual conduct or having consensual sexual contact with an individual who is not the employee's spouse, and for whom the developmental disabilities employee was employed or under contract to provide care or supervise the provision of care at the time of the incident.
- viii. Rights code violation means any violation of the rights enumerated in section 5123.62 of Ohio Revised Code that creates a likely risk of harm to the health or welfare of an individual.
- ix. Sexual abuse means unlawful sexual conduct or sexual contact as those terms are defined in section 2907.01 of Ohio Revised Code and the commission of any act prohibited by Chapter 2907 of Ohio Revised Code (e.g., public indecency, importuning, and voyeurism) when the sexual conduct, sexual contact, or act involves an individual.
- x. Verbal abuse means the use of words, gestures, or other communicative means to purposefully threaten, coerce, intimidate, harass, or humiliate an individual.

## 2) Category B

- i. Attempted suicide means a physical attempt by an individual that results in emergency room treatment, in-patient observation, or hospital admission.

- ii. Death other than accidental or suspicious death means the death of an individual by natural cause without suspicious circumstances.
- iii. Medical emergency means an incident where emergency medical intervention is required to save an individual's life (e.g. choking relief techniques such as back blows or cardiopulmonary resuscitation, use of an automated defibrillator, or epinephrine auto injector usage).
- iv. Missing individual means an incident that is not considered neglect and an individual's whereabouts, after immediate measures taken, are unknown and the individual is believed to be at or pose an imminent risk of harm to self or others. An incident when an individual's whereabouts are unknown for longer than the period of time specified in the individual service plan that does not result in imminent risk of harm to self or others shall be investigated as an unusual incident.
- v. Peer-to-peer act. "Peer-to-peer act" means any of the following incidents involving two individuals:
  - a) Exploitation which means the unlawful or improper act of using another individual or another individual's resources for monetary or personal benefit, profit, or gain.
  - b) Theft which means intentionally depriving another individual of real or personal property valued at twenty dollars or more or property of significant personal value to the individual.
  - c) Physical act which means a physical altercation that:
    - a. Results in examination or treatment by a physician, physician assistant, or nurse practitioner; or
    - b. Involves strangulation, a bloody nose, a bloody lip, a black eye, a concussion, or biting which causes breaking of the skin; or
    - c. Results in an individual being arrested, incarcerated, or the subject of criminal charges.
  - d) Sexual act which means sexual conduct and/or contact for the purposes of sexual gratification without the consent of the other individual.
  - e) Verbal act which means the use of words, gestures, or other communicative means to purposefully threaten, coerce, or intimidate the other individual when there is the opportunity and ability to carry out the threat.

- vi. Significant injury means an injury of known or unknown cause that is not considered abuse or neglect and that results in concussion, broken bone, dislocation, second or third degree burns or that requires immobilization, casting, or five or more sutures. Significant injuries shall be designated in the incident tracking system as either known or unknown cause.

3) Category C

- i. Law enforcement means any incident that results in the individual served being tased, arrested, charged, or incarcerated.
- ii. Unanticipated hospitalization. "Unanticipated hospitalization" means any hospital admission or hospital stay over twenty-four hours that is not pre-scheduled or planned. A hospital admission associated with a planned treatment or pre-existing condition that is specified in the individual service plan indicating the specific symptoms and criteria that require hospitalization need not be reported.
- iii. Unapproved behavioral support. "Unapproved behavioral support" means the use of a prohibited measure as defined in rule 5123:2-2-06 of the Administrative Code or the use of a restrictive measure implemented without approval of the human rights committee or without informed consent of the individual or the individual's guardian in accordance with rule 5123:2-2-06 of the Administrative Code, when use of the prohibited measure or restrictive measure results in risk to the individual's health or welfare. When use of the prohibited measure or restrictive measure does not result in risk to the individual's health or welfare, the incident shall be investigated as an unusual incident.

K. "Physical harm" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

L. "Primary person involved" means the person alleged to have committed or to have been responsible for the accidental or suspicious death, exploitation, failure to report, misappropriation, neglect, physical abuse, prohibited sexual relations, rights code violation, sexual abuse, or verbal abuse.

M. "Program implementation incident" means an unusual incident involving the failure to carry out a person-centered plan when such failure causes minimal risk or no risk. Examples include, but are not limited to, failing to provide supervision for short periods of time, automobile accidents without harm, and self-reported incidents with minimal risk.

- N. "Provider" means an agency provider or independent provider that provides specialized services.
- O. "Specialized services" means any program or service designed and operated to serve primarily individuals, including a program or service provided by an entity licensed or certified by DODD.
- P. "Systems issue" means a substantiated major unusual incident attributed to multiple variables.
- Q. "Team" means, as applicable:
- 1) The group of persons chosen by an individual with the core responsibility to support the individual in directing development of his or her individual service plan. The team includes the individual's guardian or adult whom the individual has identified, as applicable, the service and support administrator, direct support staff, providers, licensed or certified professionals, and any other persons chosen by the individual to help the individual consider possibilities and make decisions; or
  - 2) An interdisciplinary team as that term is used in 42 C.F.R. 483.440 as in effect on the effective date of this rule.
- R. "Unusual incident" means an event or occurrence involving an individual that is not consistent with routine operations, policies and procedures, or the individual's care or individual service plan, but is not a major unusual incident. Unusual incident includes, but is not limited to, dental injuries; falls; an injury that is not a significant injury; medication errors without a likely risk to health and welfare; overnight relocation of an individual due to a fire, natural disaster, or mechanical failure; an incident involving two individuals served that is not a peer-to-peer act major unusual incident; and rights code violations or unapproved behavior supports without a likely risk to health and welfare; emergency room or urgent care treatment center visits; and program implementation incidents.
- S. "Working day" means Monday, Tuesday, Wednesday, Thursday, or Friday except when that day is a holiday as defined in section 1.14 of Ohio Revised Code.

### **Reporting Requirements for Major Unusual Incidents**

- A. Reports regarding all major unusual incidents involving an individual who resides in an intermediate care facility or who receives round-the-clock waiver services shall be filed and the requirements of this policy followed regardless of where the incident occurred.

- B. Reports regarding the following major unusual incidents shall be filed and the requirements of this policy followed regardless of where the incident occurred:
- 1) Accidental or suspicious death;
  - 2) Attempted suicide;
  - 3) Death other than accidental or suspicious death;
  - 4) Exploitation;
  - 5) Failure to report;
  - 6) Law enforcement;
  - 7) Misappropriation;
  - 8) Missing individual;
  - 9) Neglect;
  - 10) Peer-to-peer act;
  - 11) Physical abuse;
  - 12) Prohibited sexual relations;
  - 13) Sexual abuse; and
  - 14) Verbal abuse.
- C. Reports regarding the following major unusual incidents shall be filed and the requirements of this rule followed only when the incident occurs in a program operated by a the Board or when the individual is being served by a licensed or certified provider;
- 1) Medical emergency;
  - 2) Rights code violation;
  - 3) Significant injury;
  - 4) Unapproved behavioral support; and
  - 5) Unanticipated hospitalization.
- D. Immediately upon identification or notification of a major unusual incident, the provider shall take all reasonable measures to ensure the health and welfare of at-risk individuals. The provider and the Board shall discuss any disagreements regarding reasonable measures in order to resolve them. If the provider and the Board are unable to agree on reasonable measures to ensure the health and welfare of at-risk individuals, DODD shall make the determination. Such measures will include:
- 1) Immediate and ongoing medical attention, as appropriate;
  - 2) Removal of an employee from direct contact with any at-risk individual when the employee is alleged to have been involved in abuse or neglect until such time as the provider has reasonably determined that such removal is no longer necessary; and
  - 3) Other necessary measures to protect the health and welfare of at-risk individuals.
- E. Immediately upon receipt of a report or notification of an allegation, the Board shall:
- 1) Ensure that all reasonable measures necessary to protect the health and welfare of at-risk individuals have been taken;
  - 2) Determine if additional measures are needed; and
  - 3) Notify DODD if a department-directed administrative investigation is required. Such notification shall take place on the first working day the Board becomes aware of the incident.
- F. The provider shall immediately, but no later than four hours after discovery of the incident, notify the Board through means identified by the Board of the following incidents or allegations:

- 1) Accidental or suspicious death;
  - 2) Exploitation;
  - 3) Misappropriation;
  - 4) Neglect;
  - 5) Peer-to-peer act;
  - 6) Physical abuse;
  - 7) Sexual abuse;
  - 8) Verbal abuse; and
  - 9) When the provider has received an inquiry from the media regarding a major unusual incident.
- G. For all major unusual incidents, all providers shall submit a written incident report to the Board contact no later than three p.m. the next working day following initial knowledge of a potential or determined major unusual incident. The report shall be submitted in a format prescribed by DODD.
- H. The Board shall enter preliminary information regarding the incident in the incident tracking system and in the manner prescribed by DODD by 5:00 p.m. on the working day following notification by the provider or of becoming aware of the major unusual incident.
- I. When a provider has placed an employee on leave or otherwise taken protective action pending the outcome of the administrative investigation, the Board or department, as applicable, shall keep the provider apprised of the status of the administrative investigation so that the provider can resume normal operations as soon as possible consistent with the health and welfare of at-risk individuals. The provider shall notify the Board or department, as applicable, of any changes regarding the protective action.
- J. The Board shall have a system that is available twenty-four hours a day, seven days a week, to receive and respond to all reports required by this rule. The Board shall communicate this system in writing to all individuals receiving services in the county or their guardians as applicable, providers in the county and to DODD.

### **Reporting of Alleged Criminal Acts**

- A. The provider shall immediately report to the law enforcement entity having jurisdiction of the location where the incident occurred, any allegation of a criminal act. The provider shall document the time, date, and name of person notified of the alleged criminal act. The Board shall ensure that the notification has been made.

### **Abused or Neglected Children**

All allegations of abuse or neglect as defined in sections 2151.03 and 2151.031 of Ohio Revised Code of an individual under the age of twenty-one years shall be immediately reported to the local public children's services agency. The notification may be made by the provider or the Board. The Board shall ensure that the notification has been made.

### **Notification Requirements for Major Unusual Incidents**

- A. When the Board is the provider, it shall make the following notifications, as applicable, when the major unusual incident or discovery of the major unusual incident occurs when such provider has responsibility for the individual. The notification shall be made on the same day the major unusual incident or discovery of the major unusual incident occurs and include immediate actions taken.
- 1) Guardian or other person whom the individual has identified.
  - 2) Service and support administrator serving the individual.
  - 3) Other providers of services as necessary to ensure continuity of care and support for the individual..
  - 4) Staff or family living at the individual's residence who have responsibility for the individual's care.
- B. All notifications or efforts to notify shall be documented. The Board shall ensure that all required notifications have been made.
- C. Notification shall not be made:
- 1) If the person to be notified is the primary person involved, the spouse of the primary person involved, or the significant other of the primary person involved;  
or
  - 2) When such notification could jeopardize the health and welfare of an individual.
- D. Notification to a person is not required when the report comes from such person or in the case of a death when the family is already aware of the death.
- E. In any case where law enforcement has been notified of an alleged criminal act, the department may provide notification of the major unusual incident to any other provider, developmental center, or county board for whom the primary person involved works, for the purpose of ensuring the health and welfare of any at-risk individual. The notified provider or county board shall take such steps necessary to address the health and welfare needs of any at- risk individual and may consult the department in this regard. The department shall inform any notified entity as to whether the major unusual incident is substantiated. Providers, developmental centers, or county boards employing a primary person involved shall notify the department when they are aware that the primary person involved works for another provider.

### **Analysis of Major Unusual Incident Trends and Patterns**

- (1) By January thirty-first of each year, a provider shall conduct an in-depth review and analysis of trends and patterns of major unusual incidents occurring during the preceding calendar year and compile an annual report which contains:

- (a) Date of review;
  - (b) Name of person completing review;
  - (c) Time period of review;
  - (d) Comparison of data for previous three years;
  - (e) Explanation of data;
  - (f) Data for review by major unusual incident category type;
  - (g) Specific individuals involved in established trends and patterns (i.e., five major unusual incidents of any kind within six months, ten major unusual incidents of any kind within a year, or other pattern identified by the individual's team);
  - (h) Specific trends by residence, region, or program; (i) Previously identified trends and patterns; and
  - (j) Action plans and preventive measures implemented to address noted trends and patterns.
- (2) A provider shall send the annual report to the Board for all programs operated in the county by February twenty-eighth of each year. The Board shall review the annual report to ensure that all issues have been reasonably addressed to prevent recurrence of major unusual incidents. The Board shall keep the annual report on file and make it available to DODD upon request.
- (3) A Board shall send the annual report to the department for all programs operated by the county board by February twenty-eighth of each year. The department shall review the annual report to ensure that all issues have been reasonably addressed to prevent recurrence of major unusual incidents.
- (4) The Board shall have a committee that reviews trends and patterns of major unusual incidents. The committee shall be made up of a reasonable representation of the Board, providers, individuals who receive services and their families, and other stakeholders deemed appropriate by the committee.
- (a) The role of the committee shall be to review and share the county aggregate data prepared by the Board to identify trends, patterns, or areas for improving the quality of life for individuals served in the county.

- (b) The committee shall meet each March to review and analyze data for the preceding calendar year. The Board shall send the aggregate data prepared for the meeting to all participants at least ten calendar days in advance of the meeting.
- (c) The Board shall record and maintain minutes of each meeting, distribute the minutes to members of the committee, and make the minutes available to any person upon request.
- (d) The Board shall ensure follow-up actions identified by the committee have been implemented.

### **Oversight**

- (A) The Board shall review, on at least a quarterly basis, a representative sample of provider unusual incident logs, including logs where the county board is a provider, to ensure that major unusual incidents have been reported, preventive measures have been implemented, and that trends and patterns have been identified and addressed in accordance with this rule. The sample shall be made available to the department for review upon request.
- (B) When the Board is a provider, the department shall review, on a monthly basis, a representative sample of county board logs to ensure that major unusual incidents have been reported, preventive measures have been implemented, and that trends and patterns have been identified and addressed in accordance with this rule. The Board shall submit the specified logs to DODD upon request.

### **Training**

- (A) The Board shall ensure staff employed are trained on the requirements of OAC 5123-17-02, prior to direct contact with any individual. Thereafter, staff employed shall receive annual training on the requirements of the rule including a review of health and welfare alerts issued by the department since the previous year's training.

**Approved: 3/21/19, Board Action #19-21**