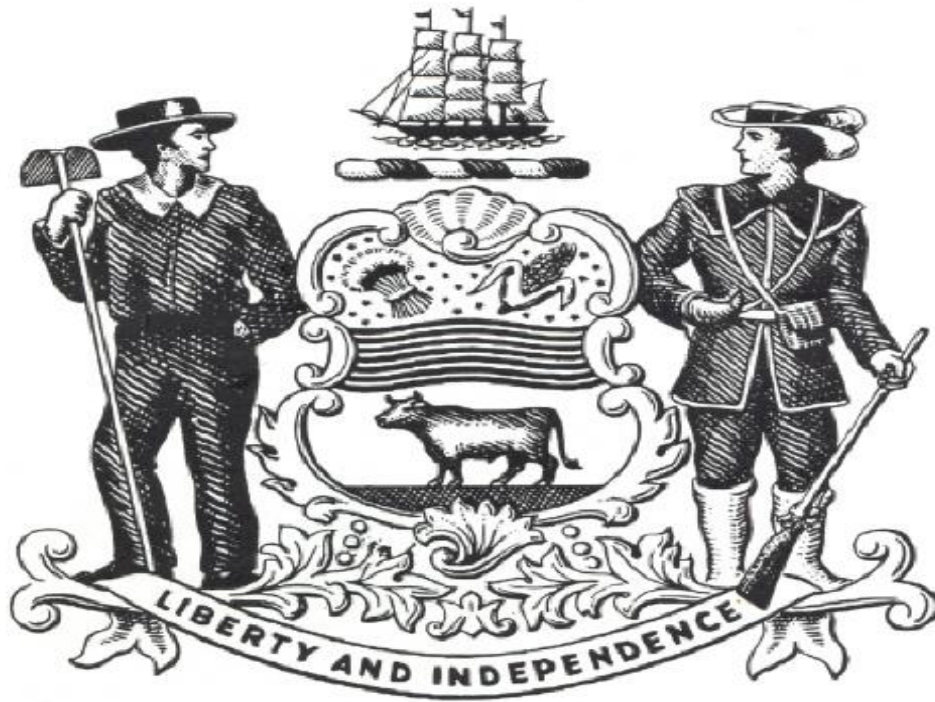


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# **Joint Legislative Oversight and Sunset Committee**



**Adult Protective Services**

**2019 Draft Report**

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March 2019

Draft Report was completed by:  
Amanda McAtee, Research Analyst  
Legislative Council • Division of Research  
411 Legislative Hall  
Dover, DE 19901  
[Amanda.McAtee@delaware.gov](mailto:Amanda.McAtee@delaware.gov)  
302-744-4114

## ***TABLE OF CONTENTS***

<b>A NOTE ABOUT THIS DRAFT REPORT.....</b>	<b>5</b>
<b>AGENCY HISTORY .....</b>	<b>7</b>
<b>JUSTIFICATION AND NEED FOR EXISTENCE.....</b>	<b>7</b>
<b>JOINT LEGISLATIVE OVERSIGHT AND SUNSET COMMITTEE REVIEW HISTORY .....</b>	<b>8</b>
<b>MISSION, GOALS, OBJECTIVES, &amp; AUTHORITY.....</b>	<b>8</b>
<b>COMPOSITION &amp; STAFFING .....</b>	<b>12</b>
<b>COMPLAINT AND APPEALS PROCESS.....</b>	<b>19</b>
<b>ENACTED LEGISLATION IMPACTING APS .....</b>	<b>21</b>
<b>PENDING LEGISLATION.....</b>	<b>22</b>
<b>ADMINISTRATIVE PROCEDURES ACT COMPLIANCE.....</b>	<b>22</b>
<b>FREEDOM OF INFORMATION ACT COMPLIANCE .....</b>	<b>22</b>
<b>FISCAL INFORMATION.....</b>	<b>22</b>
<b>ACCOMPLISHMENTS .....</b>	<b>23</b>
<b>CHALLENGES .....</b>	<b>24</b>
<b>OPPORTUNITIES FOR IMPROVEMENT .....</b>	<b>24</b>
<b>ADDITIONAL COMMENT FROM THE COMMITTEE ANALYST .....</b>	<b>25</b>
<b>APPENDIX A: APS ADVISORY COUNCIL BY-LAWS</b>	
<b>APPENDIX B: APS STAFF LISTING</b>	
<b>APPENDIX C: ORGANIZATIONAL CHART</b>	
<b>APPENDIX D: POLICY AND PROCEDURE MANUAL SELECTIONS</b>	
<b>APPENDIX E: MEMORANDUMS OF UNDERSTANDING</b>	
<b>APPENDIX F: DSAAPD POLICY MEMORANDUM NUMBER 12</b>	
<b>APPENDIX G: COMMITTEE ANALYST SUPPLEMENTAL INFORMATION</b>	
<b>APPENDIX H: APS STATUTE</b>	
<b>APPENDIX I: COUNCIL ON SERVICES FOR AGING AND ADULTS WITH PHYSICAL DISABILITIES STATUTE</b>	
<b>APPENDIX J: DSAAPD AUDITS</b>	

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**A NOTE ABOUT THIS DRAFT REPORT**

The information provided in this report is taken from the Joint Legislative Oversight and Sunset Committee (“Committee”) Performance Review Questionnaire, as it was completed by the agency under review. When appropriate, the Analyst who prepared this report made minor changes to grammar and the organization of information provided in the questionnaire, but no changes were made to the substance of what the agency reported. Any points of consideration which arose in analyzing the questionnaire and compiling this report are addressed in the section titled Additional Comment from the Committee Analyst. It is the intent of the Analyst to make any substantive changes which may be required, as the result of findings made through the review processes, in the final version of this report.

The statutes governing and applying to the agency under review are included as Appendices to this Draft Report. They are included only as a reference for Joint Legislative Oversight and Sunset Committee members, and may not be included in the Final Report.

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## **AGENCY HISTORY**

The Delaware General Assembly created Adult Protective Services (“APS”) in July 1982.<sup>1</sup> The legislative intent of APS’s enabling statute states:

The General Assembly recognizes that many adult citizens of this State are subject to psychological or physical injury or exploitation because of physical or mental disability, impairment, illness or condition or other causes which render them incapable of providing for their basic daily living needs. The General Assembly, therefore, intends through this chapter to establish a system of services for impaired adults designed to protect their health, safety and welfare. The intent is to authorize only the least possible restrictions on the exercise of personal and civil rights and such restrictions may be permitted only when consistent with proven need for services.<sup>2</sup>

The enabling legislation places APS within the Department of Health and Social Services (“DHSS”), where was a unit of the Office of the Secretary. In October 2017, APS was moved under DHSS’ Division of Services of Aging and Adults with Physical Disabilities (“DSAAPD”), to promote better coordination of services between APS and DSAAPD’s Community Services Program.

## **JUSTIFICATION AND NEED FOR EXISTENCE**

Delaware has one of the country’s fastest growing senior populations. Since APS was established in the 1980s, the state’s older population has grown at an astounding rate, just as it has all over the country. This correlates into a growing number of vulnerable adults.

Nationally, elder abuse is one of the most underreported social problems. Nearly 84% of incidents go unreported. Impaired adults are often unable to protect themselves against incidents of abuse, neglect, or exploitation. Many do not know where to turn for assistance. Others are incapable of seeking help because they are physically dependent on their abuser, unable to leave their home, or unable to use a telephone. Many are simply too embarrassed or frightened to ask for help. They may be reluctant to press charges against the abuser, especially if the abuser is a family member.

Today, Delaware’s older population is growing at a much faster rate than it was in the 1980s. The state’s older population is projected to be 16% higher by 2020 than the current population of 210,368. According to U.S. Census figures, 7% of older Delawareans speak a language other than English, and 15.4% of men and 29.2% of women aged 65 years and older live alone. Almost 28% of those aged 60 and older living in Delaware report having a disability, and 7.3% are below the poverty level.

Vulnerable populations are at risk for abuse, neglect, and financial exploitation. Higher rates of abuse occur when an older adult is in poor physical health, has dementia, is isolated, or has a lower income. Those living with a spouse or child are at increased vulnerability. In Delaware, family members perpetrated 82% of the 350 elderly abuse cases, including physical, verbal, and sexual abuse in 2015.

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<sup>1</sup> See 31 *Del. C.* §§ 3901-3913.

<sup>2</sup> See *id.* at § 3901.

In 2015, APS received nearly 1,700 complaints of abuse, neglect, and exploitation, and conducted 1,226 investigations. At 453, financial exploitation was the second largest category of complaints made, an increase in complaints of 240% since 2005. APS is addressing the issue of financial exploitation through employing trained advocates, grant money funding, and collaborating with the Department of Justice and the Delaware Division of Health Care Quality.

APS recently found an additional area of vulnerability within the opioid epidemic. Investigations and services provided regarding opioid abuse are becoming more complex. Based on national trends, APS expects this area of vulnerability to increase in the oncoming years.

APS acknowledges that it has not fully alleviated abuse, neglect, and exploitation despite the actions taken to ensure the well-being and independence of Delaware’s vulnerable adults. However, more investigations occur every year, alleged victims and their families receive much-needed services, and the public are being educated on the issues of vulnerable adult abuse, neglect, and exploitation.<sup>3</sup> APS provides needed social service interventions for vulnerable adults, and APS staff is specifically trained in serving this population.

## **JOINT LEGISLATIVE OVERSIGHT AND SUNSET COMMITTEE REVIEW HISTORY**

The Joint Legislative Oversight and Sunset Committee (“JLOSC”) has never reviewed APS.

## **MISSION, GOALS, OBJECTIVES, & AUTHORITY**

APS was established as a comprehensive and coordinated services delivery system to protect vulnerable adults who, due to their disabilities, are unable to provide for their daily living needs and are consequently subject to psychological or physical injury or exploitation. Its mission is to ensure the safety and well-being of elderly and adults with physical disabilities who are in danger of being mistreated and unable to protect themselves. APS believes that their enabling legislation does accurately reflect their mission.

APS provides social services intervention for those who are living in the community, 18 years or older, physically or mentally impaired, and subject to abuse, neglect, or exploitation. APS’s ultimate goal is achieved when an adult with an infirmity or incapacity is living in an environment that has been made safer after a potential or actual danger has been removed.

The following objectives are in place to aid APS in reaching its ultimate goal:

- To mobilize the individual's own strengths and to utilize whatever resources are available in the community in order to improve the adult's ability to function and to live their life in safety and dignity, with as much satisfaction, enjoyment and comfort, as possible.
- To prevent unnecessary or inappropriate institutionalization.
- To safeguard the rights and resources and maintain the physical and psychological health of the adult.
- To prevent injury to the infirm or incapacitated adult or to others.
- To recognize and preserve the right of self-determination of the adult.

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<sup>3</sup> Analyst’s Note: Because the statute defines the term “alleged victim,” so that term is used throughout this report. See 31 *Del. C. § 3902(3)*.



- To seek appropriate legal alternatives (such as guardianship) only after all other remedies are exhausted, unless an emergency arises which requires a legal alternative.
- To establish a coordinated system of services to protect the health, safety and welfare of infirm or incapacitated adults by utilizing both the informal and formal support network.

To meet its objectives and goals, APS has in place the following policies relating to the referral and investigating process:<sup>4</sup>

- Policy #600 Referrals and Screening: Referral Process – It is the policy of Adult Protective Services that the program will receive initial reports of abuse, neglect and/or exploitation of infirm adults through the Harmony for APS system, or if a financial institution, through a fax using appropriate forms. Any person having reasonable cause to believe that an adult person is infirm or incapacitated and is in need of protective services shall report such information to the Aging and Disability Resource Center (ADRC) hotline.
- Policy #601 Referrals and Screening: Intake and Screening Process – It is the policy of Adult Protective Services that the program will screen all referred suspected reports of abuse, neglect and/or exploitation for possible investigation by APS. If the report is appropriate for APS investigation, the report will be assigned to an APS investigator. If the report is not appropriate, it will be referred to another service provider so that additional supports may be arranged for the alleged victim.
- Policy #700 Investigation: Home Visits and Assessments – It is the policy of Adult Protective Services that the program will investigate all reports of abuse, neglect and/or exploitation of infirm adults that have been determined to meet APS criteria. Investigations consist of in person visits with an alleged victim and the completion of several assessments, all done in the Harmony for APS system.
- Policy #701 Investigation: Service Delivery – It is the policy of Adult Protective Services that the program will adequately provide service planning for alleged victims of abuse, neglect and/or exploitation in need of protective services.
- Policy #702 and #703 Investigation: Voluntary and Involuntary Services – It is the policy of Adult Protective Services that the program will provide services in a voluntary manner only, unless involuntary services are needed for the safety of the alleged victim.
- Policy #704 Investigation: Consult Services – It is the policy of Adult Protective Services that the program may seek assistance from medical professionals for evaluation of alleged victims. These evaluations may assist the investigator in the identification of specific problems, identification of the impact of those problems as well as identification of possible modes of treatment.
- Policy #705 Investigation: Health Treatment Guidelines Emergency – It is the policy of Adult Protective Services that, in the event of an emergency, the program will seek necessary health treatment services in a voluntary manner only, unless involuntary services are needed for the safety of the alleged victim.

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<sup>4</sup> APS supplied their Policy and Procedure Manual. The complete manual is available upon request; relevant sections referenced in this report are found in their entirety in Appendix D.

- Policy #706 Investigation: Health Treatment Guidelines Non-Emergency – It is the policy of Adult Protective Services that the program will seek necessary health treatment services in a voluntary manner only, unless involuntary services are needed for the safety of the alleged victim.
- Policy #707 Investigation: Death of an Alleged Victim – It is the policy of Adult Protective Services that the program may need to seek support from the police and medical examiner in the event of the death of an alleged victim.
- Policy #708 Investigation: Family Responsibility – It is the policy of Adult Protective Services that the program may need to seek assistance from the alleged victim's family during the investigation.

Since October 2017, APS has been housed within DSAAPD. To ensure alleged victims are receiving necessary services, APS and DSAAPD coordinate with the following state entities:

- Division of Child Support Services.
- Division of Developmental Disabilities Services.
- Division of Health Care Quality.
- Division of Medicaid & Medical Assistance.
- Division of Public Health.
- Division of Social Services.
- Division of Substance Abuse and Mental Health.
- Division for the Visually Impaired.
- Department of Justice.
- Criminal Justice Council.
- Office of the Public Guardian.
- Various law enforcement departments.

Four APS policies address the coordination of services:

- Policy #900 Coordination with Other Agencies: Memorandum of Understanding – It is the policy of Adult Protective Services that services within the State of Delaware should be viewed as service and consultation resources.
- Policy #901 Coordination with Other Agencies: Interagency Coordination – It is the policy of Adult Protective Services that the program may need to coordinate with other agencies within the State in order to provide appropriate services to the alleged victim.
- Policy #902 Coordination with Other Agencies: Interstate Coordination – It is the policy of Adult Protective Services that the program may need to coordinate with other agencies outside of the State in order to provide appropriate services to the alleged victim.
- Policy #903 Coordination with Other Agencies: After-Hours – It is the policy of Adult Protective Services that the program will not investigate reports of abuse, neglect, or exploitation during after-hours, but will provide emergency services until 8:30pm Monday through Friday.

APS has Memorandums of Understanding (“MOUs”) with the following agencies, to further coordinate services:<sup>5</sup>

- Department of Justice – The purpose of this agreement is to delineate APS and Department of Justice’s responsibility in serving victims of crime, through the Elder Abuse and Exploitation project.
- Division of Developmental Disabilities Services – The purpose of this agreement is to provide appropriate services in a timely and efficient manner to individuals who may have developmental disabilities and may require protective services.
- Division of Health Care Quality (formerly the Division of Long Term Care Residents Protection) – The purpose of this agreement is to clarify roles within DSAAPD and Division of Health Care Quality Investigation Section, to fully investigate financial exploitation reports.

APS’s policies and procedures are reviewed with support from DSAAPD’s Planning Unit. As of the date APS submitted its questionnaire, the APS Administrator was reviewing the policies and procedures.<sup>6</sup> Once review is completed, the administrator will suggest any changes to the DSAAPD Planning Unit, who will work with APS to draft revisions to the policies and procedures. DSAAPD’s Leadership Team will review and approve proposed changes, and forward proposed changes to DSAAPD’s two Deputy Attorneys General (“DAGs”), Valerie Farnan and Karin Volker. After the DAGs’ review, APS will implement the changes.

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<sup>5</sup> APS supplied MOUs. Sections referenced in this report are found in their entirety in Appendix E.

<sup>6</sup> APS provided an update in March 2019 and indicated that its administrator reviews APS policies and procedures. The Planning Unit also reviews them annually.

## COMPOSITION & STAFFING

### Agency Organization and Staffing:

DSAAPD, the DHSS division under which APS is organized, is divided into several units:<sup>7</sup>

Office of the Director	Service Delivery & Program Unit	Adult Day Services Unit	Administrative Services Unit	Planning Unit	Long Term Care Unit
Oversight for all agency services & operations; signing contracts; strategic planning, program development, & quality assurance initiatives; provides leadership for advocacy & coordination efforts; oversees emergency planning activities.	Provides info & assistance, options counseling, case management, nursing support, & caregiver support; operates DE Aging & Disability Resource Center, <b>Adult Protective Services</b> , & Nursing Home Transition Program.	Operates Smyrna Adult Day Services.	Develops requests for proposals, selects service providers, & oversees the functioning of agency contracts; handles the budgeting, accounting, clerical, & computer-related functions within the agency.	Strategic planning, emergency planning, program development, housing policy development, grant oversight, & public relations; oversees the agency's health & wellness programs, Alzheimer's Disease Initiative, DE Senior Medicare Patrol Program, & Lifespan Respite Program.	Operates DE Hospital for the Chronically Ill and Governor Bacon Health Center.

Twenty-five of the 648 employees who work for the various DSAAPD units are dedicated to APS:<sup>8</sup>

- 16 Full-time, Merit; 2 are currently vacant.
- 5 casual seasonal; 2 are currently vacant.
- 4 temporary staff; 1 is currently vacant.

DSAAPD has 586 merit employees and 7 appointed employees. None of the appointments are within APS. APS was organized under DSAAPD in October 2017; temporary or contractual employees have been provided to APS since the end of fiscal year 2018.

APS's effectiveness is hindered by insufficient staffing and growing demands caused by an increase in Delaware's older population. Each year APS receives more complaints of abuse, neglect, or exploitation. Investigations are becoming more complex as problems such as financial exploitation have become increasing issues. Frequent staff turnover and the length of time it takes to recruit, hire, and train new staff, has made addressing the influx of complaints difficult. APS consistently shifts workloads to cover staffing shortages and prioritize investigations based on need. In addition, APS currently contracts 4 positions through federal sub-grant funding which is expected to end in 2019. These 4 positions have provided much-needed services to alleged victims served by APS. APS is looking for ways to keep these positions sustainable, but future funding is not guaranteed.

<sup>7</sup> Analyst Note: This information was taken from <https://www.dhss.delaware.gov/dhss/dsaapd/sections.html> on March 29, 2019.

<sup>8</sup> APS provided organization charts for all units under DSAAPD. Those more directly related to APS are available in Appendix B and C; the full set of charts is available on request.

Most APS staff positions are hired through the competitive State of Delaware merit system, with recruitment completed through the Department of Human Resources. Contract positions funded with grant funding are hired through a staffing agency.

APS staff orientation can take anywhere from 3 to 9 months before a new hire has the competency to start working independently under peer and supervisory guidance. In addition to the APS orientation, all new hires must complete DSAAPD's general orientation, which is 2 days.

APS staff also attends several training opportunities throughout the year. Each staff member has the opportunity to attend local conferences related to APS's work. Several APS staff members attend the National Adult Protective Services Association ("NAPSA") conference annually. NAPSA has also developed, in conjunction with the Academy for Professional Excellence, an online certification program that offers a core curriculum around APS practice issues. No APS staff member has completed the NAPSA online certificate program, but all APS staff have taken NAPSA courses. DSAAPD would use training funds to support any APS staff member who wishes to complete the NAPSA online certificate program.<sup>9</sup>

APS offered the following training opportunities in 2016, 2017, and 2018:

<b>Name of Training</b>	<b>Year of Training</b>	<b>Number Completed</b>	<b>Training Hours</b>	<b>Approved?</b>	<b>Certificate</b>	<b>Evaluation</b>
APS Orientation – <i>See Policy 501: Orientation</i>	Ongoing	25	80	Yes	Yes	On File
Financial Exploitation	2017	40	1	Yes	Yes	On File

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<sup>9</sup> Analyst Note: Information supplied immediately prior to finalization of Draft Report.

APS also staff participated in trainings on skill building and best practices in the field of elder justice:<sup>10</sup>

Name of Training	Year of Training	Number of APS Staff Completed	Training Hours	Approved?	Certificate	Evaluation
Forensic Injury ID and Documentation	2016/2017	4	8	Yes	Yes	on file with vendor
Aging and Addictions	2017	5	8	Yes	Yes	on file
Aging and Mental Illness	2017	5	8	Yes	Yes	on file
Investigative Interviewing for Abuse	2017	3	8	Yes	Yes	on file
Hoarding and Community Interventions	2017	4	8	Yes	Yes	on file with vendor
Life Conference	2017	1	8	Yes	Yes	on file with vendor
NAPSA National Conference	2017/2018	7	25	Yes	Yes	on file
Fight Against Domestic Violence	2018	4	8	Yes	Yes	on file
Self Determination	2018	6	8	Yes	Yes	on file with vendor

APS staff publishes information about its public activities in a variety of ways. The following is not an exhaustive list, but shows the diversity and frequency of information shared:

- DSAAPD and DHSS social media.
- *Guide to Service for Older Delawareans and Persons with Disabilities* – distributed statewide every 2 years.
- Hope Prevention Support Safety Advocate Brochure.
- APS General Brochure.
- APS Financial Exploitation Brochure.
- Informational flyers – Topics include signs of elder abuse, how to stop elder abuse, signs of identity theft, and how to spot frauds and scams.
- Money Smart for Older Adults Resource Guide.
- *Your Disaster Checklist*.
- World Elder Abuse Awareness Day activities – celebrated every year in June.

APS distributes or makes available the above resources at all public events and conferences that APS or DSAAPD representatives attend. APS reaches out to alleged victims, professionals, and the general

<sup>10</sup> Analyst Note: Information supplied immediately before finalization of Draft Report indicates that the sources of these training courses are through local partners, including the Office of the Public Guardian and the Department of Justice. APS supervisors conduct APS orientation.

community with these resources. In addition, case managers provide information during home visits depending on the needs of the alleged victims. APS provides information to the community and other agencies upon request and provides presentations throughout the year. Some of the presentations given in the past three years include:

- APS General – provided to Christiana Care, Delaware Hospice, Delaware Hospital for the Chronically Ill, Delaware Long Term Care Ombudsman Program, Delaware Quality Assurance Commission, Delaware State Constables, Justice of the Peace Court, Kent General Hospital, and Speech Language Pathology Program at University of Delaware.
- Financial Exploitation – provided to Christiana Care, DHSS, Department of Justice, Delaware Victims’ Rights Taskforce JEVS Human Services, Lewes Senior Center, Modern Maturity Center, New Castle County Police Department, and Windsor Apartments.

### **APS Advisory Council Composition and Purpose:**

APS’s governing statute required the creation of an advisory council, now known as the Adult Protective Services Advisory Council (“Advisory Council”), “to provide oversight by promulgating rules and regulations for the establishment of the adult protective services system program.”<sup>11</sup>

The Advisory Council further governed by by-laws.<sup>12</sup> Article II of the by-laws states the purpose of the Advisory Council is to assist DHSS “in the development of [and] continuance of a comprehensive and coordinated system of protective services for infirm and incapacitated adults in the state.” Under its by-laws, the Advisory Council is to meet quarterly; a quorum of 5 is needed to hold a meeting and a simple majority vote is needed to pass a motion.<sup>13</sup>

The Advisory Council currently has 12 members and 4 vacancies.<sup>14</sup> The APS statute requires representatives from the following:<sup>15</sup>

- Office of the Public Guardian.
- Division of Social Services.
- DSAAPD.
- Division of Developmental Disabilities Services.
- Division of Substance Abuse and Mental Health.
- Division of Public Health.
- Elder Law Program.
- Delaware Emergency Medical Services Oversight Council.
- 3 members from either the medical profession or the general public.

The Advisory Council’s by-laws further define that membership is by appointment of the DHSS Secretary, composed of a minimum of 15 members, and terms are a minimum of 2 years with the option of an open-ended appointment. If a council member is absent on 2 consecutive occasions without an excuse or designee, the council will warn the member of possible suspension.

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<sup>11</sup> See 31 *Del. C.* § 3903(a). Analyst Note: APR regulations could not be found in the Register of Regulations.

<sup>12</sup> Analyst Note: § 3903(a) requires only the creation of an advisory council; other than establishing who must be represented on the council, however, the council itself is not codified. The by-laws are in Appendix A.

<sup>13</sup> Analyst Note: Public meeting dates have not been located for the 2019 calendar year.

<sup>14</sup> Analyst Note: Supplemental materials supplied to the JLOSC provided information for only 11 current Council members.

<sup>15</sup> See 31 *Del. C.* § 3903(a).

Current Advisory Council members are:<sup>16</sup>

	<b>NAME<sup>17</sup></b>	<b>Title</b>	<b>Date/Year of Appointment<sup>18</sup></b>
1.	Katie McMillan - Chair	Public Member	02/1988
2.	Linda Brittingham	Corporate Director of Social Work, Christiana Care Health Services	09/1994
3.	Walter Donaldson, CFE	Managing Director, Freeh Group International Solutions	02/09/2009
4.	Anthony Frabizzio, Esq.	Attorney, Heckler & Frabizzio	08/1991
5.	Linda Lawrence	New Castle County APS Supervisor, Division of Services for Aging and Adults with Physical Disabilities	2017
6.	Carrie Magathan	Kent/Sussex APS Supervisor, Division of Services for Aging and Adults with Physical Disabilities	2017
7.	Staci Marvel	Chief of Operations, Division of Medicaid and Medical Assistance	2015
8.	Barbara McCaffery	Social Service Chief Administrator, Division of Services for Aging and Adults with Physical Disabilities	2014
9.	Lexie McFassel, Esq.	Public Guardian, Office of the Public Guardian	2013
10.	Marki Mosley	Victim Service Officer, New Castle County Department of Public Safety	1991
11.	Stacy Watkins	Social Service Senior Administrator, Division of Development Disabilities Services	2017

The Advisory Council currently has 4 vacancies. Reasons for the vacancies are unknown. The DHSS Secretary has been advised of and authorized to fill the vacancies. The vacancies are:

- A representative of the Department of Justice, since 2008.
- A representative of medical community, since 2010.
- A representative of the legal community, since 2012.
- A representative of the Division of Substance Abuse and Mental Health, since 2016.

#### **Advisory Council Compensation:**

Under the council's by-laws, members serve without compensation.

#### **Advisory Council Member Trainings:**

Training is not required, though training opportunities are shared at meetings.

#### **Conflicts of Interest:**

If a conflict of interest arises, the member is asked to leave the Council. This has happened only one time since the council's inception.<sup>19</sup>

<sup>16</sup> Listed as provided in supplemental materials provided to the JLOSC.

<sup>17</sup> Council members' contact information was included in the JOLSC Questionnaire and is available upon request.

<sup>18</sup> Not all members listed had exact dates of appointments; most were provided with only year of appointment.

<sup>19</sup> Analyst Note: Additional details not provided.



**Groups Served or Affected by APS Actions:**

<b>Interest Groups (Groups affected by APS actions or represent others served by or affected by APS actions)</b>		
<b>Group or Association Name/Contact Person</b>	<b>Address</b>	<b>Phone Number Fax Number Internet Address</b>
Bayhealth	640 S. State St. Dover, DE 19901	P: (302) 674-4700 <a href="https://www.bayhealth.org/">https://www.bayhealth.org/</a>
Beebe Healthcare	424 Savannah Rd. Lewes, DE 19958	P: (302) 645-3300 <a href="https://www.beebehealthcare.org/">https://www.beebehealthcare.org/</a>
Central Delaware Speech-Language Pathology, Inc.	541 S. Red Haven Ln. Dover, DE 19901	P: (302) 674-3350 F: (928) 752-3350 <a href="https://www.centraldelawareslp.com">https://www.centraldelawareslp.com</a>
CHEER Delaware	546 South Bedford St. Georgetown, DE. 19947	P: (302) 515-3040 F: (302) 515-3071 <a href="https://www.cheerde.com/">https://www.cheerde.com/</a>
Christiana Care Health System	4755 Ogletown Stanton Rd, Newark, DE 19718	P: (302) 733-1000 <a href="https://christianacare.org/">https://christianacare.org/</a>
Delaware Association of Bank Security	N/A	Email: <a href="mailto:MLawson@artisansbank.com">MLawson@artisansbank.com</a> <a href="http://www.dabs.org/index.html">http://www.dabs.org/index.html</a>
Delaware Center for Justice, Inc.	100 W. 10th St., Suite 905 Wilmington, DE 19801	P: (302) 658-7174 <a href="http://www.dcjustice.org/">http://www.dcjustice.org/</a>
Delaware Department of Justice	Carvel State Building 820 N. French St. Wilmington, DE 19801	P: (302) 577-8400 <a href="https://attorneygeneral.delaware.gov/">https://attorneygeneral.delaware.gov/</a>
Delaware Division of Developmental Disabilities Services	1056 South Governor's Avenue, Suite 101 Dover, DE 19904	P: (302) 744-9700 F: (302) 744-9632 <a href="https://dhss.delaware.gov/dhss/ddds/">https://dhss.delaware.gov/dhss/ddds/</a>
Delaware Division of Medicaid & Medical Assistance	DHSS Herman Holloway Campus, Lewis Building 1901 N. DuPont Highway New Castle, DE 19720	P: (302) 255-9500 <a href="https://dhss.delaware.gov/dhss/dmma">https://dhss.delaware.gov/dhss/dmma</a>
Delaware Division of Substance Abuse and Mental Health	Herman M. Holloway, Sr. Campus 1901 N. Du Pont Hwy, Main Bldg. New Castle, DE 19720	P: (302) 255-9399 F: (302) 255-4428 <a href="https://dhss.delaware.gov/dsamh/">https://dhss.delaware.gov/dsamh/</a>
Delaware Hospice	100 Patriots Way Milford, DE 19963	P: (302) 856-7717 <a href="https://www.delawarehospice.org/">https://www.delawarehospice.org/</a>
Delaware MENTOR	28417 DuPont Blvd. Units 1 & 2 Millsboro, DE 19966	P: (302) 934-0512 F: (302) 934-0514 <a href="https://www.de-mentor.com/">https://www.de-mentor.com/</a>
Delaware State Police	1441 N. DuPont Highway P.O. Box 430 Dover, Delaware 19903-0430	P: (302) 739-5901 <a href="https://dsp.delaware.gov/">https://dsp.delaware.gov/</a>

<b>Interest Groups (continued)</b> <b>(Groups affected by APS actions or represent others served by or affected by APS actions)</b>		
<b>Group or Association Name/Contact Person</b>	<b>Address</b>	<b>Phone Number Fax Number Internet Address</b>
Delaware Victim Rights Task Force	N/A	Email: <a href="mailto:DeIVRTF@gmail.com">DeIVRTF@gmail.com</a> <a href="https://sites.google.com/site/delawarevrtf/home">https://sites.google.com/site/delawarevrtf/home</a>
Home Instead Senior Care	755 A Walker Rd., Dover, DE 19904	P: (302) 697-6435 <a href="https://www.homeinstead.com">https://www.homeinstead.com</a>
JEVS Human Services	913 N Market St. Wilmington, DE 19801	P: (302) 654-3950 <a href="https://www.jevshumanservices.org/">https://www.jevshumanservices.org/</a>
Justice of the Peace Courts	Concord Professional Building 1010 Concord Ave Wilmington, DE 19802	P: (302) 577-2550 F: (302) 577-2526 <a href="https://courts.delaware.gov/jpcourt/">https://courts.delaware.gov/jpcourt/</a>
The Lewes Senior Center	32083 Janice Rd. Lewes, DE 19958	P: (302) 645-9293 <a href="https://www.lewesseniorcenter.org/">https://www.lewesseniorcenter.org/</a>
Long Term Care Ombudsman Program	Herman M. Holloway, Sr. Campus 1901 N. Du Pont Hwy, Main Bldg. New Castle, DE 19720	P: (800) 223-9074 F: (302) 255-4453 <a href="https://dhss.delaware.gov/dsaapd/ltcop.html">https://dhss.delaware.gov/dsaapd/ltcop.html</a>
Modern Maturity Center	1121 Forrest Ave. Dover, DE 19904	P: (302) 734-1200 F: (302) 674-1265 <a href="http://www.modern-maturity.org/">http://www.modern-maturity.org/</a>
Nanticoke Health Services	801 Middleford Rd. Seaford, DE 19973	P: (302) 629-6611 <a href="http://www.nanticoke.org/">http://www.nanticoke.org/</a>
New Castle County Police Department	Public Safety Building 3601 North DuPont Highway New Castle, DE 19720	P: (302) 395-8171 <a href="https://www.nccde.org/238/Police">https://www.nccde.org/238/Police</a>
Seasons Hospice & Palliative Care	4755 Ogletown Stanton Rd. Newark, DE 19718	P: (866) 443-9856 <a href="https://www.seasons.org/">https://www.seasons.org/</a>

<b>National Organizations or Other Government Entities</b> <b>(that serve as an information clearinghouse or regularly interact with APS)</b>		
<b>Group or Association Name/Contact Person</b>	<b>Address</b>	<b>Phone Number Fax Number Internet Address</b>
Administration for Community Living	330 C St SW Washington, DC 20201	P: (202) 401-4634 <a href="https://www.acl.gov/">https://www.acl.gov/</a>
National Adult Protective Services Association	PO Box 96503 PMB 74669 Washington, DC 20090	P: (202) 370-6292 <a href="http://www.napsa-now.org/">http://www.napsa-now.org/</a>
National Association of States United for Aging and Disabilities	1201 15th St. NW, Ste. 350 Washington, DC 20005	P: (202) 898-2578 F: (202) 898-2583 <a href="http://www.nasuad.org/">http://www.nasuad.org/</a>
National Center on Elder Abuse	1000 South Fremont Ave., Unit 22 Bld. A-6 Alhambra, CA 91803	<a href="https://ncea.acl.gov/">https://ncea.acl.gov/</a>

<b>National Organizations or Other Government Entities (that serve as an information clearinghouse or regularly interact with APS)</b>		
<b>Group or Association Name/Contact Person</b>	<b>Address</b>	<b>Phone Number Fax Number Internet Address</b>
The National Clearinghouse on Abuse in Later Life	1245 E. Washington Ave., Suite 150 Madison, WI 53703	P: (608) 255-0539 F: (608) 255-3560 <a href="http://www.ncall.us/">http://www.ncall.us/</a>
US Department of Justice Elder Justice Initiative	950 Pennsylvania Ave., NW Washington, DC 20530-0001	P: (202) 514-2000 <a href="https://www.justice.gov/elderjustice">https://www.justice.gov/elderjustice</a>

### **COMPLAINT AND APPEALS PROCESS**

APS complaints received are taken seriously and addressed immediately. Procedures for complaints from an alleged victim are outlined in DSAAPD Policy Memorandum Number 12 that covers the Standards for Service Action Notification and Appeals.<sup>20</sup> Under this policy, alleged victims may appeal APS investigations and service plan decisions. Alleged victims' guardians and those who have power of attorney may also participate in the appeals process.

APS must provide alleged victims a written notice within 10 business days' of a denial, reduction, or termination of APS services, investigation, or service plan decision. An APS investigator sends written notices using the Notification of Service Action Form. The written appeal process and an appeal form are included in the mailing.

The following actions do not result in formal notifications and may not be appealed:

- Placement on service waitlists.
- Changes in service providers due to contract terminations.
- Service-wide reductions to participants due to funding limitations.

Otherwise, the process for an appeal is based on the voluntary or involuntary nature of the underlying investigation or service plan decision:

#### Appeals of Involuntary Investigations & Decisions:

A grievance involving an involuntary APS investigation or service plan decision must go through the Court of Chancery.

#### Appeals of Voluntary Investigations & Decisions:

A grievance involving a voluntary investigation or decision goes through DSAAPD. An alleged victim has 30 calendar days from the date of the Notification of Service Action Form to appeal. All appeals must be in writing, using the Service Action Appeal Form. Accommodations are provided if requested in the written appeal. An alleged victim's caregiver, guardian, or representative may also appeal on the alleged victim's behalf. DSAAPD must receive a Release of Information form, proof of guardianship, or power of attorney before DSAAPD staff may speak with anyone other than the alleged victim.<sup>21</sup>

<sup>20</sup> Policy Number 12 is in Appendix F. A complete copy of all DSAAPD General Policies and is available upon request.

<sup>21</sup> Analyst Note: It is not clear if APS specifically must receive the Release of Information, or another unit under DSAAPD.

Within 10 business days of receiving an appeal, the DSAAPD Social Services Chief Administrator of Operations (“CAO”) must conduct a review of the decision under appeal. After the review, the alleged victim is sent the CAO’s determination in a Notification of Service Action Appeal Review, along with a Service Action Final Review Request Form (“Form”). The Form provides instruction on how to request a final review if the alleged victim disagrees with the CAO’s decision.

An alleged victim has 5 business days from receipt of the Notification of Service Action Appeal Review to request a final review, which may be made by phone or in writing using the Form. Final review requests must be sent to the DSAAPD Deputy Director. The Deputy Director reviews the appeal; speaks to the alleged victim, if appropriate; makes a final decision; and notifies the alleged victim in writing using the Notification of Service Action Final Review. All appeals end at this level and no further action may be taken.

During an appeal, services already in place will continue until the appeal is resolved. Services that have been denied are not provided unless an appeal is successful.

Complaints regarding APS staff members are directed to the DHSS Director of Constituent Relations, APS supervisors, and DSAAPD Director’s Office. The complaints are usually resolved through the APS supervisors; complaints unresolved at that level are escalated to the Director’s Office, and then to the Secretary’s Office, at which point it is usually handled through the DHSS Director of Constituent Relations.

Typical complaints include dissatisfaction that APS made an announced visit, a desire for more services, internal complaints, and routine customer service complaints. Complaints are usually resolved with a single phone call from the DHSS Director of Constituent Relations. There are no known complaints from the media, Attorney General’s Office, or consumer groups. Most complainants are individuals closely involved with an alleged victim.

DSAAPD does not have a formal record of complaints over the past 3 years, as APS was not housed in the Division; the numbers below are based on the recollection the DHSS Director of Constituent Relations.

	<b>Calendar Year 2016</b>	<b>Calendar Year 2017</b>	<b>Calendar Year 2018</b>
Total Complaints Received	1	1	1
Total Complaints Investigated	1	0	1
Total Complaints Found to be Valid	0	0	0
Total Complaints Forwarded to the Attorney General	0	0	0
Total Complaints Resulting in Disciplinary Action	0	0	0

There have been no reports of employee misfeasance over the last 3 years, and there have been no disciplinary actions related to complaints of how an APS staff member handled a case. If a complaint is received regarding a staff member’s behavior, the staff member may receive a verbal or written write-up, have cases reassigned, be required to attend meetings with the complainant or the Cabinet Secretary, or other actions as directed. Policy changes may be implemented based on the nature of situations reported. DSAAPD also uses the process outlined in the Merit Rules to address employee conduct, specifically Merit Rule 12.1:

Employees shall be held accountable for their conduct. Disciplinary measures up to and including dismissal shall be taken only for just cause. “Just cause” means that management has sufficient reasons for imposing accountability. Just cause requires: showing that the employee has committed the charged offense; offering specified due process rights specified in this chapter; and imposing a penalty appropriate to the circumstances.

### **Audit History:**

DSAAPD – not including APS – was audited for the federal fiscal year covering October 1, 2016, through September 30, 2017.<sup>22</sup> The audit was completed for the federal fiscal year covering October 1, 2016, through September 30, 2017. There were 2 findings related to DSAAPD:

1. There was a material weakness in internal control over compliance in the SF-425 Federal Financial Report reporting. The Division is reviewing its formal policy regarding the review and approval of supporting documentation received and is modifying its review structure by re-educating staff of the structure and policies in place regarding federal financial reporting.
2. There was significant deficiency in internal controls over compliance for allowable costs, Time and Effort certifications. The Division is reviewing its formal policy regarding the review and approval of supporting documentation received and is modifying its review structure by re-educating staff of the structure and policies in place regarding Time and Effort reporting.

At the time of questionnaire completion, DHSS was in the middle of its 2018 audit. Results were expected in early 2019.<sup>23</sup>

### **ENACTED LEGISLATION IMPACTING APS**

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#### **State:**

136<sup>th</sup> General Assembly, June 1991, HB 190 – Added definitions for abuse, caregiver, mistreatment, and neglect. It also added the violations associated with abuse, neglect, and exploitation of an infirm adult.

147<sup>th</sup> General Assembly, September 2014, HB 417 – Updated the definition of “exploitation” and added a new definition for “financial exploitation,” and created a duty to report mandate for all financial institutions.

149<sup>th</sup> General Assembly, July 2018, HB 362 – Broadened confidentiality of APS records to include anyone in the Department of Health and Social Services that provides adult protective services to the alleged victim and their relatives.

#### **Federal:**

The Older Americans Act: Title VII, Chapter 3 Vulnerable Elder Rights Protection, reauthorized in 2016, this act specifically established a funding line for States to carry out the development and enhancement of programs to address elder abuse, neglect, and exploitation. APS received \$23,710 in fiscal year 2018. Use of the allotment is also described in the Act. Delaware consistently provides input to its national partners, including the Administration for Community Living and other national advocacy groups who will be working on the next reauthorization, after fiscal year 2019.

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<sup>22</sup> Complete audit findings were provided with the JLOSC questionnaire and are available in Appendix J.

<sup>23</sup> Analyst Note: Updated results are available in Appendix J.

The Elder Justice Act, enacted into law in 2010, is the first comprehensive legislation to address the abuse, neglect, and exploitation of older adults at the federal level. The law authorized a variety of programs and initiatives to better coordinate federal responses to elder abuse, promote elder justice research and innovation, support Adult Protective Services systems, and provide additional protections for residents of long-term care facilities. Some of the programs, from which APS benefits include:

- State Grants to Enhance Adult Protective Services.
- Voluntary Consensus Guidelines for State APS Systems.
- National Adult Maltreatment Reporting System (“NAMRS”).

### **PENDING LEGISLATION**

APS is not aware of any pending legislation that would affect its operations.

### **ADMINISTRATIVE PROCEDURES ACT COMPLIANCE**

APS has not promulgated any rules or regulations in accordance with the Administrative Procedures Act and currently has no proposals to do so.

### **FREEDOM OF INFORMATION ACT (“FOIA”) COMPLIANCE**

DHSS’s FOIA coordinator receives FOIA requests via email or postal service. If a FOIA request pertain to APS, the FOIA coordinator may contact DSAAPD for information. However, due to the extensive confidentiality provision for APS in the Delaware Code, a FOIA request is denied unless it is for general statistics. APS, and by extension DHSS, have never received complaints that they violated FOIA. DSAAPD DAGs have not reviewed provisions of the Public Integrity Act with Division members.<sup>24</sup>

### **FISCAL INFORMATION**

#### **Actual Revenue:**

<b>Fiscal Year</b>	<b>Source(s)of Funds</b>	<b>Amount \$\$</b>
<b>FY19 (budgeted)*</b>		
\$968,739.20	General Funds	
\$229,660	Federal Funds	<b>TOTAL: \$1,198,399.20</b>
<b>FY18 (actual)</b>		
\$968,739.20	General Funds	
\$395,160.51	Federal Funds	<b>TOTAL: \$1,363,899.71</b>
<b>FY17 (actual)</b>		
\$968,739.20	General Funds	
\$398,712.51	Federal Funds	<b>TOTAL: \$1,367,451.71</b>

#### **State v. Federal Funds:**

APS receives federal and state funds as follows:

- Total amount of **federal** dollars: **\$1,198,399.20**.
- Type of federal funds: Older Americans Act Title VII, Federal State Grant to Enhance APS, and Victims of Crime Act (“VOCA”).
- State/Federal Match Ratio: There is no match requirement for Title VII funds. The State Grant to Enhance APS, has a 25% match. VOCA funding, has a 20% match.
- Total amount of **state** dollars: **\$2,906,217.60**.

<sup>24</sup> Analyst Note: More discussion of FOIA is in the Additional Comment from the Committee Analyst section.

**Breakdown of FY18 budgeted expenses:**

<b>Line Item</b>	<b>Source(s)<sup>25</sup></b>	<b>Amount of Expenditures</b>
Personnel and Fringe		\$1,124,663.71
Contractual		\$206,023.00
Travel		\$4,833.00
Supplies		\$28,380.00
		<b>TOTAL \$1,363,899.71</b>

APS does not collect revenue from fines or fees. Over the last 3 fiscal years, APS received 3 federal grants that positively impacted its revenue, allowing it to hire additional staff on a short term basis and aiding it in addressing some of the agency’s more pressing needs, including the purchase of a new data management system.

**ACCOMPLISHMENTS**

APS has made several significant accomplishments over the past few years. Prior to joining DSAAPD in October 2017, APS worked with DSAAPD to receive grant funding for three projects:

- The Financial Exploitation Advocate Program – Advocates work directly with victims of financial exploitation statewide, in operation since 2016.
- Mediware Harmony for APS Data Management System Project – To strengthen and improve APS systems statewide. APS implemented a data management system to allow for data collection, reporting, and infrastructure, including the technical ability to provide comprehensive case component data to Administration for Community Living's National Adult Maltreatment Reporting System (“NAMRS”). Prior to the new system, APS could not extract data on APS operations. Implemented in 2017.
- After-Hours Emergency Care Coordinators Program – Coordinators work after hours to give alleged victims access to emergency support services at the time of need, in operation since early 2018.

Now that APS is under the purview of DSAAPD, there is better coordination of communication and services, resulting in a less fragmented approach to abuse, neglect, and exploitation cases. APS, along with all DSAAPD community services programs, takes a holistic, person-centered approach to helping people. All of this has helped to address complex cases such as those concerning self-neglect in a much more advantageous way.<sup>26</sup> In other jurisdictions, APS is often the entity that handles self-neglect cases; in Delaware, DSAAPD served inadequate self-care cases. With APS as a unit within DSAAPD, self-neglect cases may be assigned, at the discretion of leadership, to nursing, case management, or APS units within the organization.

<sup>25</sup> Analyst Note: Source information not provided; the chart is copied here as received.

<sup>26</sup> Analyst Note: The issue of self-neglect was central to JLOSC’s decision to review APS. See the Additional Comments from the Committee Analyst for more discussion.

## **CHALLENGES**

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### **Growing Caseloads:**

A steady increase in APS referrals corresponds with the increase in Delaware's older population. In 2014, APS received 1,355 complaints and completed 866 investigations.<sup>27</sup> Just 2 years later, in 2016, complaints and investigations jumped to 1,728 and 1,272, respectively. Funding for APS, however, remained stagnant. Caseload sizes are growing due to the number of investigations, putting additional burdens on staff.

### **Growing Case Complexity:**

Referrals are becoming more complex as more financial exploitation cases are referred to APS. In just 10 years, APS saw nearly a 240% increase in financial exploitation cases. While this is consistent with national trends, APS is not adequately equipped to handle such complex cases without proper training and staffing levels. APS works with other agencies, including Department of Justice and the Division of Health Care Quality, to address these complex cases, but the increase in referrals remains a challenge.

### **Staff Safety:**

APS case managers consistently place themselves in dangerous situations when conducting investigations. Homes may be infested with bed bugs or other pests, often due to hoarding. APS also can come in contact with dangerous individuals because of the investigation. This has caused a high turnover of staff, which can create a backlog of investigations. When a new APS staff member joins the unit, a lengthy orientation process takes place. Caseworkers must complete the training before they can independently take on an investigation. The time taken for necessary training adds to the backlog of investigations or case closures.

### **Public Perception:**

There is a general perception that APS is mandated to help any vulnerable adult who needs protection. Comparisons are made to child protective services. When working with adults who have capacity, however, APS services are voluntary. There is a lack of understanding of an individual's civil rights and the ability to refuse services offered by APS and other agencies.

## **OPPORTUNITIES FOR IMPROVEMENT**

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### **Operations:**

Extend APS hours to 8:00 am until 8:00 pm. APS currently operates fully staffed from 8:30 am to 4:30 pm. Unlike many other states that address only cases of those aged 60 and older, APS addresses cases of vulnerable adults aged 18 and older.<sup>28</sup> APS has 2 Emergency Care Coordinators that work until 8:00 pm, funded through a federal grant that expires on June 30, 2019, but they provide only coordination of services and no investigative services. Having the ability to investigate and provide services to alleged victims in the evening would alleviate any backlog and help the most vulnerable at their time of need. If new hours are implemented, APS will need to reevaluate its staffing structure and operational processes to better align with the new hours.

### **Develop the Elder Justice Multidisciplinary Team:**

Delaware should create an Elder Justice Multidisciplinary Team to review cases in which prior interventions for alleged victims were unsuccessful or in which multiple agencies are involved and there is a lack of clarity regarding each agency's role. Membership would include high-level professionals and

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<sup>27</sup> Not all complaints are deemed appropriate for investigation for a variety of reasons, including that the alleged victim does not want an investigation.

<sup>28</sup> Analyst Note: According to a 2012 APS survey report conducted by the National Association of States United for Aging and Disabilities, 37 out of 50 states surveyed stated that suitable age of APS clients was 18+.



advocates from cross-systems who work in the area of elder justice. By discussing these “real life” situations, teams are also likely to identify systemic problems that can be addressed through advocacy, training, or coordination.

### Updates to the APS statute:

- **Investigative Time Frames** – APS’s governing statute does not provide time frames for investigating alleged incidents or specify processes for doing so. The statute should establish the state response to reports of abuse or neglect, including roles, time frames, and processes by codifying what is already in APS policies and procedures. APS currently follows national best practices in adhering to specific time frames.
  - As a point of reference, the abuse of children covered under 16 *Del. C.* § 906, clearly defines the state response time frame for reports of abuse or neglect, and includes defining information pertaining to roles and processes.<sup>29</sup>
- **Privileged Communication** – The statute does not recognize privileged communication. Language could state, “No legally-recognized privilege, except that between attorney and client and that between priest and penitent in a sacramental confession, applies to a situation involving known or suspected abuse, neglect, or exploitation, and does not constitute grounds for failure to report or to give or accept evidence in any judicial proceeding relating to abuse or neglect.”
- **Training and Information** – The statute does not address training and information topics. Language could state, “The Department shall conduct ongoing training programs to advance the purpose of this section. The Department shall continuously publicize the existence of the 24-hour report-line to those required to report abuse or neglect pursuant to § 3910 of this title of their responsibilities and to the public the existence of the 24-hour statewide toll-free telephone number to receive reports of abuse or neglect.”
- **Neglect** – Update the statutory definition of “neglect” to include “self-neglect.”<sup>30</sup>
- **Eliminate the APS Advisory Council** – The Council’s statutory purpose is to promulgate rules and regulations to establish the adult protective services system program.<sup>31</sup> The Advisory Council currently provides little oversight or advisement. APS oversight should be within the already-established Council on Services for Aging and Adults with Physical Disabilities.<sup>32</sup> An at-large member of that council could be dedicated to APS representation.<sup>33</sup>

### ADDITIONAL COMMENT FROM THE COMMITTEE ANALYST

#### **Self-Neglect:**

JLOSC decided to review APS after a 2018 case involving self-neglect was brought to JLOSC’s attention. In summary, police responded to a report that an elderly couple was living in deplorable conditions. Ultimately, the couple was admitted to the hospital and the police contacted code enforcement who condemned the house. As part of the police investigation, a service provider reported

<sup>29</sup> Analyst Note: Provided immediately before finalization of Draft Report.

<sup>30</sup> Analyst Note: Provided immediately before finalization of Draft Report.

<sup>31</sup> Analyst Note: This is under 31 *Del. C.* § 3903(a). However, no regulations for the operation of adult protective services program could be located in the Registry of Regulations.

<sup>32</sup> The statute for Council on Services for Aging and Adults with Physical Disabilities in Appendix I.

<sup>33</sup> Analyst Note: Legislation is required to ensure APS representation on the Council on Services for Aging and Adults with Physical Disabilities. That council’s statute is in Appendix I, 29 *Del. C.* § 7915(c).

that it had contacted APS about the couple. The police learned that DSAAPD had attempted to help the couple 4 times, but the man, who also spoke for the woman, would not voluntarily accept assistance. DSAAPD determined the couples' inhabitable and dangerous living conditions were "self-inflicted." The police noted that their main concern was not to single out an agency, but that there is not adequate funding and resources to assist with these cases.

At JLOSC's August 2018 meeting regarding the case, the DSAAPD Director explained that APS never engaged with the couple. DSAAPD handled the initial referrals, which it received as a request for services by a concerned neighbor. The DSAAPD Social Service Chief Administrator explained that DSAAPD offered services to the couple on 4 separate occasions but the man refused them; attempts to contact or speak to the woman were unsuccessful. DSAAPD cannot enter a home without permission, and adults may refuse services. DSAAPD believed that the property owner would pay for a hotel only for 3 days, and they did not want to initiate a process that would render the couple homeless. Further, housing is a huge issue across the state and DSAAPD did not have available housing to place the couple, even if they had been able to convince the couple leave the home. DSAAPD's nurse believed that the man was mentally competent, even though his decisions were clearly poor. DSAAPD case managers tried to establish trust with the couple, to increase the likelihood that they would accept services, but were unsuccessful.

The DSAAPD case was open when the police contacted the agency. DSAAPD was still going to the home to offer services. DSAAPD requested the Community Ombudsman visit the home; the result was the same level of resistance. DSAAPD stated that the ombudsman used the term "self-inflicted" but the correct term is "self-neglect."

DSAAPD emphasized that APS was organized under DSAAPD in October 2017 so the organizations could work better together. At the time, the focus of APS had narrowed to abused or financially exploited adults; APS viewed a situation with no perpetrator as out of their purview. DSAAPD disagreed, and they worked on broadening APS's focus.

APS did not include in their initial responses to the JLOSC questionnaire any information regarding the issue of self-neglect, or any detailed plans to address the growing issue. The only mention of self-neglect in their initial responses was under the explanation of APS's accomplishments. Immediately before the completing of this report, APS submitted an update that included a recommendation to define "self-neglect" in its statute. Under current law, APS's ability or duty to address cases of self-neglect is unclear.

The federal Elder Justice Act defines "self-neglect" as follows:<sup>34</sup>

SEC. 2011. (18) SELF-NEGLECT.—The term "self-neglect" means an adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including—

- (A) obtaining essential food, clothing, shelter, and medical care
- (B) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or
- (C) managing one's own financial affairs.

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<sup>34</sup> See 42 U.S.C. § 1397j(18). For more information on self-neglect, see <https://selfneglect.org>; an excerpt is in Appendix G.

Many states have adapted self-neglect into the jurisdiction of their APS units providing community education and outreach to the public on the topic of self-neglect and protection services for those who exhibit self-neglect behavior. Self-neglect cases are becoming the most common condition handled by APS units; according to the Arizona Attorney General Mark Brnovich, self-neglect is responsible for almost half of their state’s APS investigations.

Before this report was finalized, APS clarified their responses to the Opportunities for Improvement section, indicating they wished to define self-neglect under their existing statute. They also provided the following in response regarding how DSAAPD served “inadequate self-care cases”:

All self-neglect cases are referred to DSAAPD’s nursing unit. Nursing conducts a home visit and addresses all medical needs and resolve any emergent needs. DSAAPD’s Community Services Program (CSP) will work with nursing and the client to develop a care plan where services can be put into place. In 2018, DSAAPD received 393 self-neglect referrals and did 734 home visits for these clients. In comparison, CSP received a total of 1,734 referrals in 2018 and made 2,261 home visits. There are no laws or regulations that govern how DSAAPD handles these cases, but DSAAPD does look at national best practices in doing so.<sup>35</sup>

### **APS Communications:**

A 10-page APS presentation document is on the DHSS website under DSAAPD that states APS receives, investigates, assesses, and evaluates “reports of adult abuse (including physical abuse, emotional abuse, sexual abuse, financial abuse, neglect, and self-neglect).”<sup>36</sup> DHSS has started to implement a new design of its website but this document is included under the “publications and forms” link under the APS Program listing. It is unclear why an APS presentation indicates that they serve self-neglect cases, given the assertion that DSAAPD preforms this function.

### **FOIA Compliance:**

Advisory Council meeting notices, agendas, or meeting minutes are not on the State’s public meeting calendar or the agency’s website. The Advisory Council is not listed on the State’s public meeting calendar. APS submitted a limited number of agendas and meeting minutes in printed format as part of their supplemental materials. The following is a list of meeting dates provided as held meetings (except where notated). Cancelled meetings, of which there were several, are not included in the following list. The following dates listed are presumed to have been held by the Advisory Council and minutes were provided except where notated.<sup>37</sup>

- Agenda and Meeting Minutes for June 17, 2015.
- Agenda and Meeting Minutes for September 16, 2015.
- Agenda and Meeting Minutes for December 16, 2015.
- Agenda and Meeting Minutes for March 9, 2016.
  - Agenda for September 14, 2016 meeting. No meeting minutes were provided, but are presumed to exist since it was noted in the March 8, 2017, meeting minutes that the minutes from the September 14, 2016, meeting were approved as submitted.
- Agenda and Meeting Minutes for March 8, 2017.
- Agenda and Meeting Minutes for June 14, 2017.
- Agenda for December 13, 2017 meeting.

<sup>35</sup> Analyst Note: It is unknown if DSAAPD has authority in its statute to handle cases involving self-neglect.

<sup>36</sup> Retrieved from <https://www.dhss.delaware.gov/dhss/dsaapd/files/aps.pdf> - see Appendix G for excerpt.

<sup>37</sup> APS-supplied Advisory Council agendas and meeting minutes are available upon request.

- No minutes were taken for this meeting as noted on the submitted meeting agenda and is recorded in the meeting minutes of the June 13, 2018 meeting.
- Agenda and Meeting Minutes for June 13, 2018
  - Last known scheduled meeting included in the minutes from the June 13, 2018, meeting was to be held on September 12, 2018, but there was no agenda or meeting minutes provided. It is unclear if that meeting was held or cancelled.

As stated in the by-laws, meetings are supposed to take place on a quarterly basis, or 16 meetings in a 3-year period spanning 2015 – 2018. According to APS submitted materials, only 9 quarterly meetings were held. Reasons for cancellation included “unforeseen circumstances” and APS workers overloaded with cases and unable to attend.

Before this report was finalized, APS stated:

APS meets internally on a regular basis. Outside of the agency, there are no scheduled APS public meetings, however DSAAPD’s Council on Services for Aging and Adults with Physical Disabilities meets monthly. Those meetings are posted on the Public Meeting Calendar.

It is unclear who is meeting internally, or if the internal meetings meet FOIA requirements. The following provides additional context regarding APS and public meetings:

- The Council on Services for Aging and Adults with Physical Disabilities has not posted meeting dates for 2019.
- Minutes for the 3 meetings held in 2018 are not posted on the DSAAPD website.
- Minutes for only 2 of 7 meetings held in 2017 are posted on the DSAAPD website.
- FOIA requires public bodies to maintain meeting minutes and make them available for public inspection.
- The Council on Services for Aging and Adults with Physical Disabilities appears to be using the State’s public meeting calendar to post meeting dates, but agenda and minutes postings are not consistent and many are missing.

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## APPENDIX A

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### STATE OF DELAWARE ADULT PROTECTIVE SERVICES ADVISORY COUNCIL BY-LAWS

#### ARTICLE I

The Adult Protective Services Advisory Council is established under Section 3903, Chapter 39, Title 31 of the Delaware code.

#### ARTICLE II

The purpose of the Council is to assist the Department of Health and Social Services. In the development of continuance of a comprehensive and coordinated system of protective services for infirm and incapacitated adults in the state.

#### ARTICLE III

The objectives of the Council include:

- a. To increase public understanding of and obtain public support for programs concerning the Adult Protective Services.
- b. To routinely review the APS statute and propose recommendations to the Department of Health And Social Services regarding changes in the law.
- c. To request, assemble and prepare recommendations for new programs and projects.
- d. To propose study, research and planning of projects and activities benefiting Adult Protective Services.
- e. To advise on program and activity standards and to propose corrective action where standards are not met.
- f. To initiate, advise and develop, in cooperation with the Aging Network and the Division of Aging and Adults with Physical Disabilities, priorities, strategy and proposed legislation benefiting the impaired, at-risk adults .
- g. To submit recommendations on Federal proposals.
- h. To advise the Director of the Division of Aging and Adults with Physical Disabilities, the Secretary of the Department Health and Social Services, and/or the Governor on matters it deems appropriate to assist the impaired, at-risk adults.
- i. To accept such matters pertaining to aid for impaired at-risk adults as may be referred to it by the Director, the Secretary, or the Governor for research, study and advice.
- j. Review and make recommendations on specific Adults Protective Services cases.

#### ARTICLE IV

Membership on this Council is by appointment of the Secretary of the Department of Health and Social Services.

The Council is composed of a minimum of 15 members with at least one representing a private consumer.

Term of office is a minimum of two years, with the option of an open-end appointment.

The Chairperson chosen from the Council, shall serve for one year in that capacity, and shall be eligible for re-election.

The Council membership shall be composed of representatives in the following areas: General Public, the Office of the Public Guardian, the Division of Mental Retardation, the Division of Alcoholism, Drug Abuse and Mental Health, the Division of Public Health, the Division of Social Services, and at least three members from the general public including those from private agencies.

If absent two consecutive times without an excuse or designee, the committee will warn the member of possible suspension.

Members of the Council serve without compensation.

Secretary and other staff may be requested from the Division of Aging and Adults with Physical Disabilities with the approval of the Director.

The Director attends all Council meetings ex-officio. Other staff may be requested to provide information.

#### ARTICLE V

Meetings are held quarterly.

Meeting agenda and place of meeting are distributed to Council and the Secretary of the Department of Health and Social Services at least 10 days before determined date.

Place of each meeting is determined by the Council.

Minutes of meeting are distributed to members. Minutes are expected to be available with the issuance of the next meeting's agenda.

#### ARTICLE VI

By-Laws are accepted and changed by a majority of six members being in accord. A simple majority vote is needed for passing motions, and a council body of five represents a quorum to hold a meeting.

Designee's have permission to vote. If designee declines to vote, then the member could be polled via telephone or mail.

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## APPENDIX B

**Staff Information** (as provided by APS in the JLOSC questionnaire responses)

Staff Member Name & Title	Responsibilities	Percentage of Time Devoted to Responsibility
Christian Tijerino, Family Services Specialist	<ul style="list-style-type: none"> <li>Supports the provision, coordination and delivery of investigation, case management and social services to the elderly and adults with physical disabilities.</li> <li>Advocates for the rights of the elderly and adults with physical disabilities in the community who are vulnerable and/or impaired and therefore at risk for abuse, neglect, and exploitation.</li> <li>Responsible for short term determination, development and implementation of a service plan to meet individual client' personal, social, health and economic needs in a cost effective, timely and productive manner.</li> <li>Responsible for re-determining the status of client needs and involves extensive interaction with clients, service providers, social service agencies and resources to see case through to completion.</li> <li>Responsible for service evaluations, site monitoring and client counseling sessions which includes authorization of services and collecting, analyzing and evaluating client progress to ensure treatment goals/objectives are being met.</li> <li>May need to interact with other professionals in the development of an interdisciplinary team plan and may recommend and authorize coordinate agency provider efforts. and</li> <li>Responsible for acting as a liaison between client, provider and agency to address and solve problems and issues and deal with possible emergency/crisis</li> <li>Provides protective services to advocate for health, safety and welfare.</li> <li>Interviews client, family and/or professional sources to determine situations or rights of vulnerable adults and assists them in obtaining needed services.</li> <li>Develops comprehensive cost effective service plans utilizing in-house sources, referrals, contracted providers and/institutions.</li> <li>Conducts on-going monitoring and assessment of service delivery for optimum quality and efficiency, and authorizes and recommends changes and adjustments as needed.</li> <li>Maintains comprehensive case records, summaries, statistical and narrative reports and completes required forms.</li> <li>Establishes effective working relationship with clients, family, community and professional sources.</li> <li>Provides direct casework service through individual/group conferences, counseling and/or site visits.</li> <li>Supplies information and responses to inquiries regarding services for clients, family, community and government agencies.</li> <li>May provide supportive casework to clients prior to, during or after hospitalization based upon physicians diagnosis and recommended treatment.</li> </ul>	100%
Oluwkemi Demu, Family Services Specialist		100%
Tahirah Prather, Family Services Specialist		100%
Reginald Nolan, Senior Family	<ul style="list-style-type: none"> <li>Adheres to duties of the Family Service Specialist</li> <li>Provides, coordinates and monitors the delivery of professional</li> </ul>	100%



Service Specialist	<p>social work, investigative and case management services to the elderly and adults with physical disabilities.</p> <ul style="list-style-type: none"> <li>• Provides services to advocate for health, safety and welfare or rights of clients and their families and assists them in obtaining needed services.</li> <li>• Interviews clients and family members and/or professionals to gather personal, social and background information.</li> <li>• Works closely with the client and family to formulate a clear description of the client and family's problems</li> <li>• Identifies the key forces which maintain the problems and identify the blocks, if any, that prevents the client and family from resolving the problems without the intervention of the State agency.</li> <li>• Determines eligibility for various social service programs offered by the agency or available in the community.</li> <li>• Develops and implements service/treatment plans, outlining the goals and objectives to be accomplished, methods and techniques to be used, and anticipated results, assists the client and family in obtaining community, social and/or therapeutic services and resources needed to accomplish plans and objectives.</li> <li>• Conducts individual and family counseling sessions with clients and members of the family to aid in achieving satisfactory social development and adjustment to specific problems and situations.</li> <li>• Assesses progress toward goals and makes recommendations on plans.</li> </ul>	
Rochelle Benton, Master Family Service Specialist	<ul style="list-style-type: none"> <li>• Adheres to duties of the Senior Family Service Specialist.</li> <li>• Performs at an expert level, directly providing, coordinating and case management services to the elderly and adults with physical disabilities, monitoring the delivery of professional social work, investigative and case management services to the elderly and adults with physical disabilities.</li> <li>• Provides protective services to advocate for health, safety and welfare or rights of vulnerable adults and assists them in obtaining needed services.</li> <li>• Conducts on-going monitoring and assessment of service delivery for optimum quality and efficiency, and authorizes and recommends changes and adjustments as needed.</li> <li>• Maintains comprehensive case records, summaries, statistical and narrative reports and completes required forms.</li> <li>• Provides specialized casework and counseling services in such areas as protective services, guardianship, and options counseling.</li> <li>• Provides direct casework services through individual/ group conferences, counseling and/or site visits.</li> </ul>	100%
Shirley Bowser, Master Family Service Specialist		100%
Marcia Everett, Master Family Service Specialist		100%
Jacqueline Twyman, Master Family Service Specialist		100%
Patricia-Wilmer Days, Master Family Service Specialist		100%
Bryan Roberts, Master Family Service		100%

Specialist		
Christine Darpino, Registered Nurse III	<ul style="list-style-type: none"> <li>• Conducts nursing assessments and analyzes the data to determine client needs.</li> <li>• Document assessment findings in a clear, concise and objective manner Inform supervisor of any "high risk" or sensitive cases.</li> <li>• Devises Plan of Care with specific goals to meet client's needs while promoting a safe environment.</li> <li>• Provide appropriate health care instructions and guidance to individuals, family members, and caregivers based on needs identified via the nursing assessment.</li> <li>• Appropriately interpret assessment findings and implement effective problem solving techniques, monitoring, and follow-up as needed.</li> <li>• Communicate and collaborate with those involved in client's care, i.e. Primary Care Physician, case manager, caregivers, health care team, and outside agencies to address client needs while maintaining HIPAA guidelines.</li> <li>• Continually evaluate the Plan of Care, document the client's response and revise as appropriate</li> <li>• Act as a client advocate at all times by anticipating potential problems and working towards solutions.</li> <li>• Work independently within the community in complex situations that require effective critical thinking skills.</li> <li>• Demonstrate professionalism in delivery of services.</li> <li>• Refer suspected cases of abuse to the appropriate agency, i.e. DSAAPD Programs, Ombudsman, Division of Family Services, etc.</li> <li>• Participates in and make recommendations regarding professional development and quality assurance activities.</li> </ul>	100%
Joanne McKeen, Financial Exploitation Advocate (Contractor)	<ul style="list-style-type: none"> <li>• Provides on-scene crisis intervention services, to victims of financial exploitation when appropriate.</li> <li>• Provides victim(s) information about police investigations, departmental policy and procedure, and provides detectives with pertinent information.</li> </ul>	100%
Theresa Price, Financial Exploitation Advocate (Contractor)	<ul style="list-style-type: none"> <li>• Identifies victim(s), needs and makes appropriate support services.</li> <li>• Trains permanent team members, educates community, law enforcement, social service and support agencies on Elder Financial Exploitation and available services.</li> <li>• Oversee the APS Coordination of Emergency Care program; which includes timely completion of all VOCA reports.</li> </ul>	100%
Kristina Sellers, Afterhours Emergency Care Coordinator	<ul style="list-style-type: none"> <li>• Oversee the APS Coordination of Emergency Care program.</li> <li>• Complete at least 30 APS screenings per month, either by phone or in-person to provide ongoing case management services.</li> </ul>	100%

(Contractor)		
Danielle Ryan, Emergency Care Coordinator (Casual/Seasonal)	<ul style="list-style-type: none"> <li>• Provide coordination of emergency care and supports to at least 180 alleged victims from 4:30pm until 8:30pm, including placement at a hotel, facility, emergency personal attendant services, etc.</li> <li>• When working with an alleged victim, a service plan will be developed and uploaded into the Harmony for APS system.</li> <li>• Meet alleged victims needing emergency services in the field, where there is suspected physical or sexual abuse from an alleged perpetrator in the home.</li> <li>• Coordinate with local law enforcement to ensure the alleged victim is no longer in danger.</li> <li>• Once an investigation is closed, support the alleged victims as they transition to other support services, including sending a follow-up letter to each alleged victim to measure satisfaction.</li> <li>• Develop training and provide at least six trainings to other Delaware APS staff and stakeholders related to support services in Delaware</li> <li>• Collaborate with at least three Delaware's victim services agencies throughout the state to learn about new resources and best practices.</li> </ul>	100%
Linda Lawrence, Senior Social Worker/Case Manager Supervisor	<ul style="list-style-type: none"> <li>• Supervise all field staff.</li> <li>• Screening APS intakes.</li> <li>• Adhere to the policies and procedures set out in the APS Policies and Procedures Manual.</li> </ul>	100%
Carrie Magathan, Senior Social Worker/Case Manager Supervisor	<ul style="list-style-type: none"> <li>• Organize and conduct APS unit meetings on a regular basis.</li> <li>• Provide coordination and management to APS unit, by overseeing operations training and human resources of the specific APS unit.</li> <li>• Develop and complete performance evaluations for subordinates annually.</li> <li>• Attend quarterly meetings of the APS Advisory Council.</li> <li>• Attend quarterly APS all unit meetings.</li> <li>• Attend monthly APS Supervisors meetings with the APS Program Administrator</li> <li>• As assigned, make presentations and trainings to staff, partners and the community at large.</li> <li>• Develop and maintain data reports, in coordination with Information Support unit, to be pulled at least monthly and shared with the APS Program Administrator.</li> <li>• Provide back-up support for the coordination of revisions and development of APS policies and procedures.</li> <li>• Assist in the development of a statewide APS training curriculum in coordination with the DSAAPD Training Staff Development Unit.</li> <li>• Maintain an inventory of elder abuse training materials, books, videos and other materials</li> <li>• Monitor all active APS cases through weekly case review of appropriateness and timeliness of actions taken.</li> </ul>	100%

	<ul style="list-style-type: none"> <li>• Accompany APS investigators on home visits to alleged victims once a quarter</li> <li>• Accompany probationary APS investigators on home visits to alleged victims once a month until they are no longer on probation.</li> <li>• Explore, in coordination with the Planning Unit, quality assurance tools to use for stakeholder, alleged victims and staff.</li> </ul>	
Jill McCoy, Social Service Administrator	<ul style="list-style-type: none"> <li>• Administrative responsibility of APS program.</li> <li>• Plans for new and existing programs, directs and coordinates activities/phases of programs and implements necessary changes.</li> <li>• Coordinates with the Planning Unit to develop new policies and procedures, updates or changes existing policies and procedures, translates changes to staff, trains staff, and makes suggested changes to review and data collection forms.</li> <li>• Coordinates with the Planning Unit in the development of grants.</li> <li>• Supervises and monitors programs/services, staff productivity.</li> <li>• Modify and/or implements operational methods and assume leadership in corrective action and/or error reduction planning.</li> <li>• Submits statistical reports, information and summaries on program for staff development and data systems information.</li> <li>• Reviews statistical and narrative reports, records and case histories prepared by staff to evaluate effectiveness of services provided.</li> <li>• Revises operating procedures which include workload assignment and staffing in conjunction with the Chief.</li> <li>• Reviews and evaluates the work of staff, makes decisions on hiring and disciplinary actions.</li> <li>• Coordinates with other administrators, State and community agencies to meet and improve agency objectives.</li> <li>• Handles grievances and assists supervisors on disciplinary actions, formal contracts, terminations and promotions.</li> <li>• Visit sites where you have staff who are direct reports at least once per month.</li> </ul>	100%
Michael Serfass, Social Service Senior Administrator	<ul style="list-style-type: none"> <li>• Coordinates with the Planning Unit in the development of grants.</li> <li>• Develops and submits all grant reports pertaining to APS.</li> <li>• Oversees coordination between APS and other units within DSAAPD.</li> <li>• Supervises APS Administrator.</li> </ul>	33%

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## **APPENDIX C**

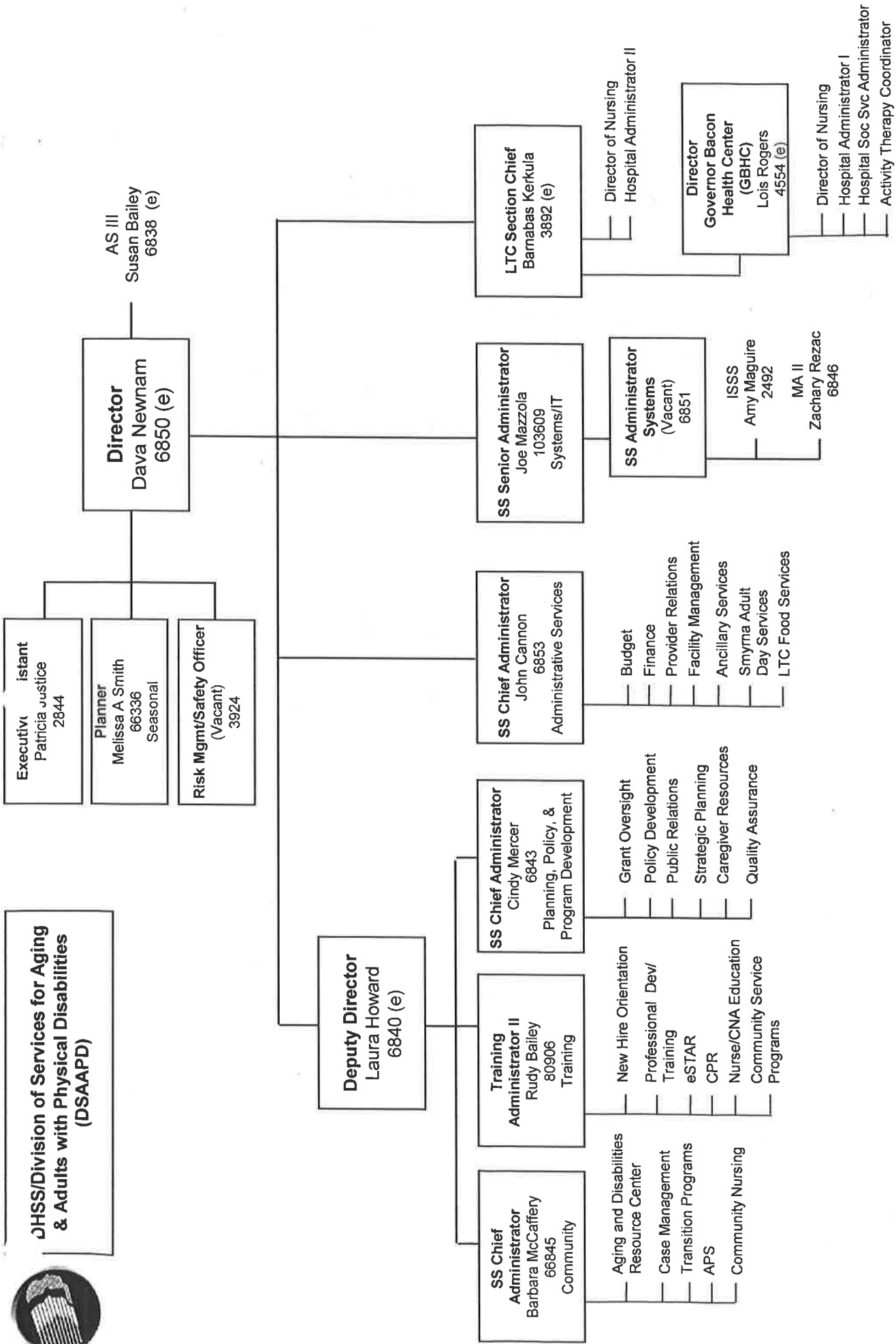
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### **ORGANIZATIONAL CHART**

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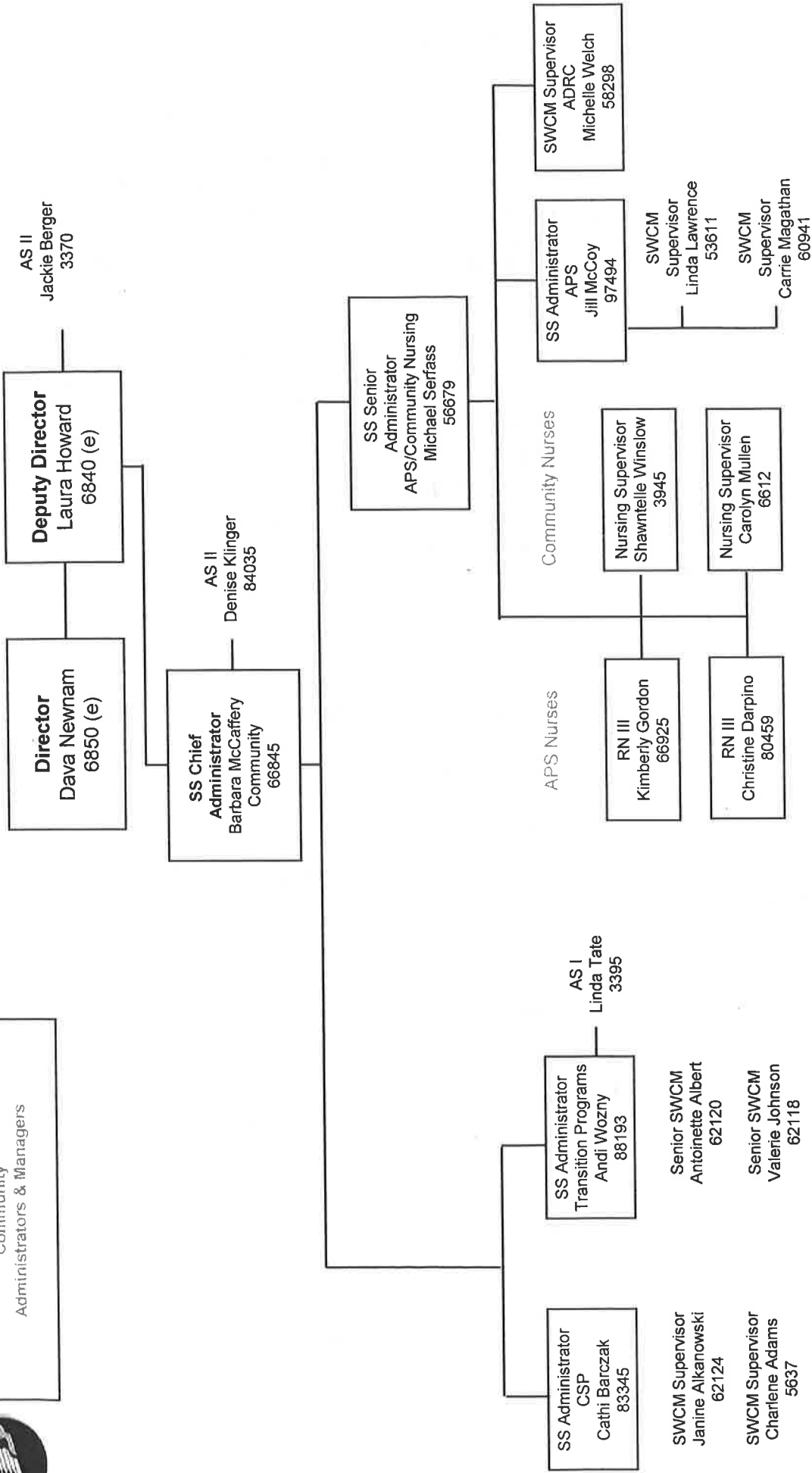
**DHSS/Division of Services for Aging  
& Adults with Physical Disabilities  
(DSAAPD)**







**DHSS/DSAAPD**  
Community  
Administrators & Managers





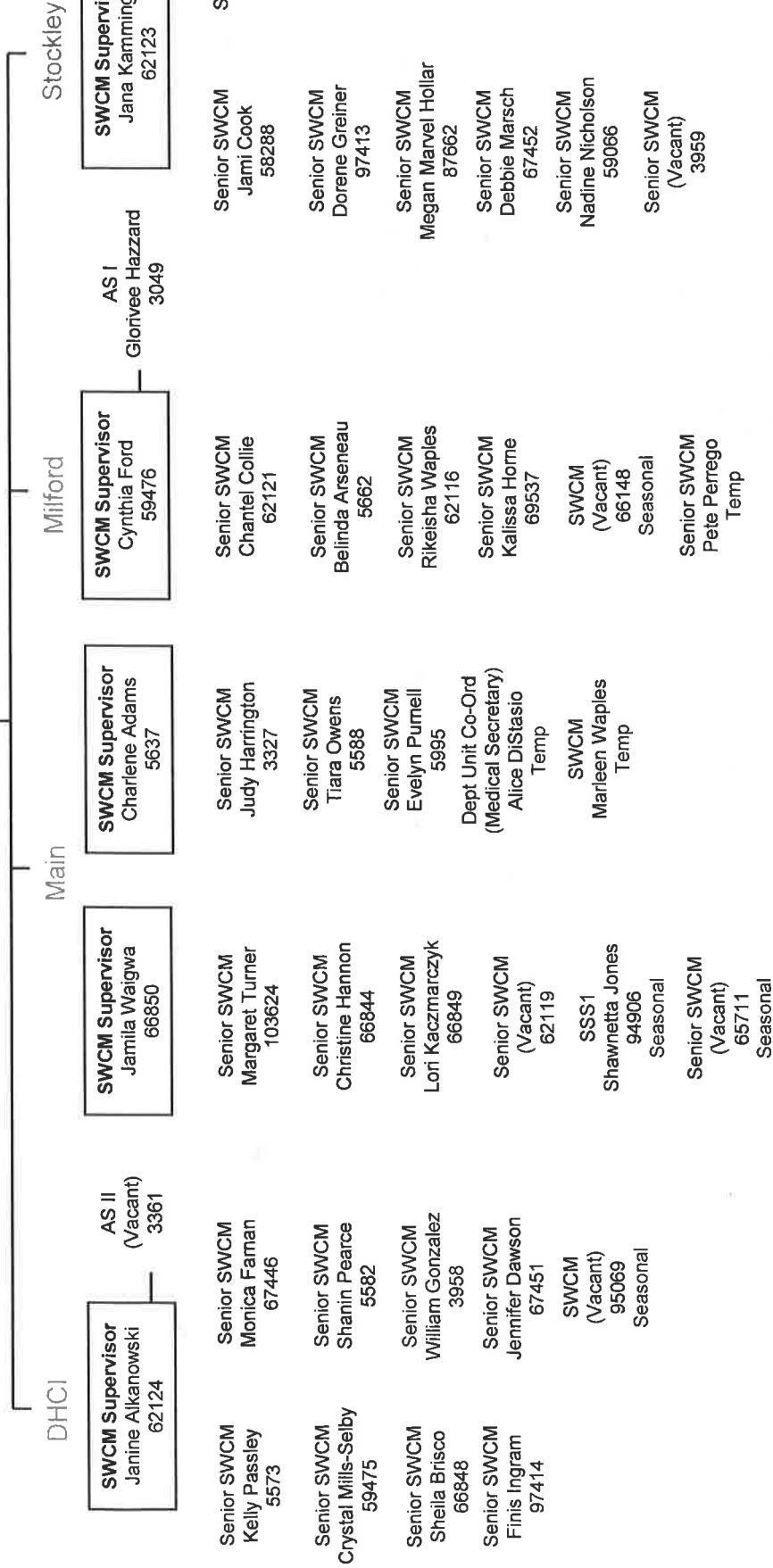
**DHSS/DSAAPD**  
Case Management

**Director**  
Dava Newnam  
6850 (e)

**Deputy Director**  
Laura Howard  
6840 (e)

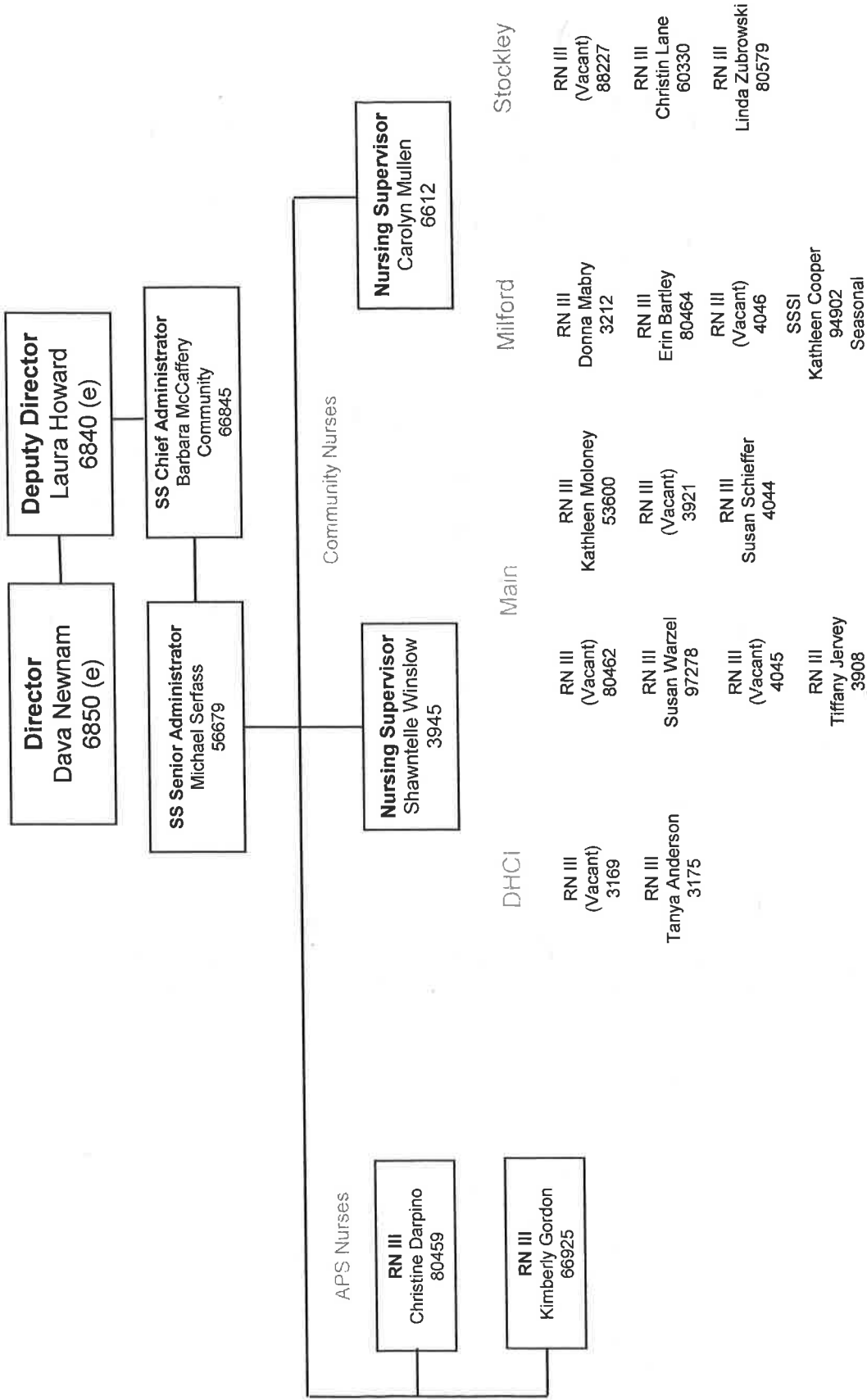
**SS Chief Administrator**  
Barbara McCaffery  
Community  
66845

**SS Administrator**  
Community  
Cathi Barczak  
83345





**DHSS/DSAAPD**  
Community/APS Nurses





## DHSS/DSAAPD

Adult Protective Services (APS)

**Director**  
Dava Newnam  
6850 (e)

**Deputy Director**  
Laura Howard  
6840 (e)

**SS Senior Administrator**  
Michael Serfass  
56679

**SS Chief Administrator**  
Barbara McCaffery  
Community  
66845

**SS Administrator  
APS**  
Jill McCoy  
97494

**AS I**  
Charlene Hurd  
66562  
Seasonal

Main/DHCI

Milford

**SWCM Supervisor**  
Linda Lawrence  
53611

**SWCM Supervisor**  
Carrie Magathan  
60941

Master Family  
Service Specialist  
Rochelle Benton  
56554

Family Service  
Specialist  
(Vacant)  
97590

Master Family  
Service Specialist  
Tahirah Prather  
67447

Emergency Care  
(VOCA)  
Ellen Devrind  
Seasonal  
Temp

Senior Family  
Service Specialist  
Reginald Nolan  
58287

Financial  
Exploitation  
Advocate  
Theresa Price  
Temp

Family Service  
Specialist  
Oluwakemi Demu  
56659

New Castle Family  
Service Specialist  
(Vacant)  
53603  
Seasonal

Family Service  
Specialist  
(Vacant)  
53614

Victim Service (VOCA)  
Financial Advocate  
Kristina Sellers  
Temp

Master Family  
Service Specialist  
Shirley Bowser  
6855

Master Family  
Service Specialist  
Jacqueline Twyman  
62122

Master Family  
Service Specialist  
Patricia Days-Wilmer  
60942

Emergency Care  
(VOCA)  
Danielle Ryan  
67363  
Seasonal

Master Family  
Service Specialist  
Marcia Everett  
53613

Kent Family Service  
Specialist  
(Vacant)  
66563  
Seasonal

Senior Family  
Service Specialist  
Cristian Tijerino  
58289

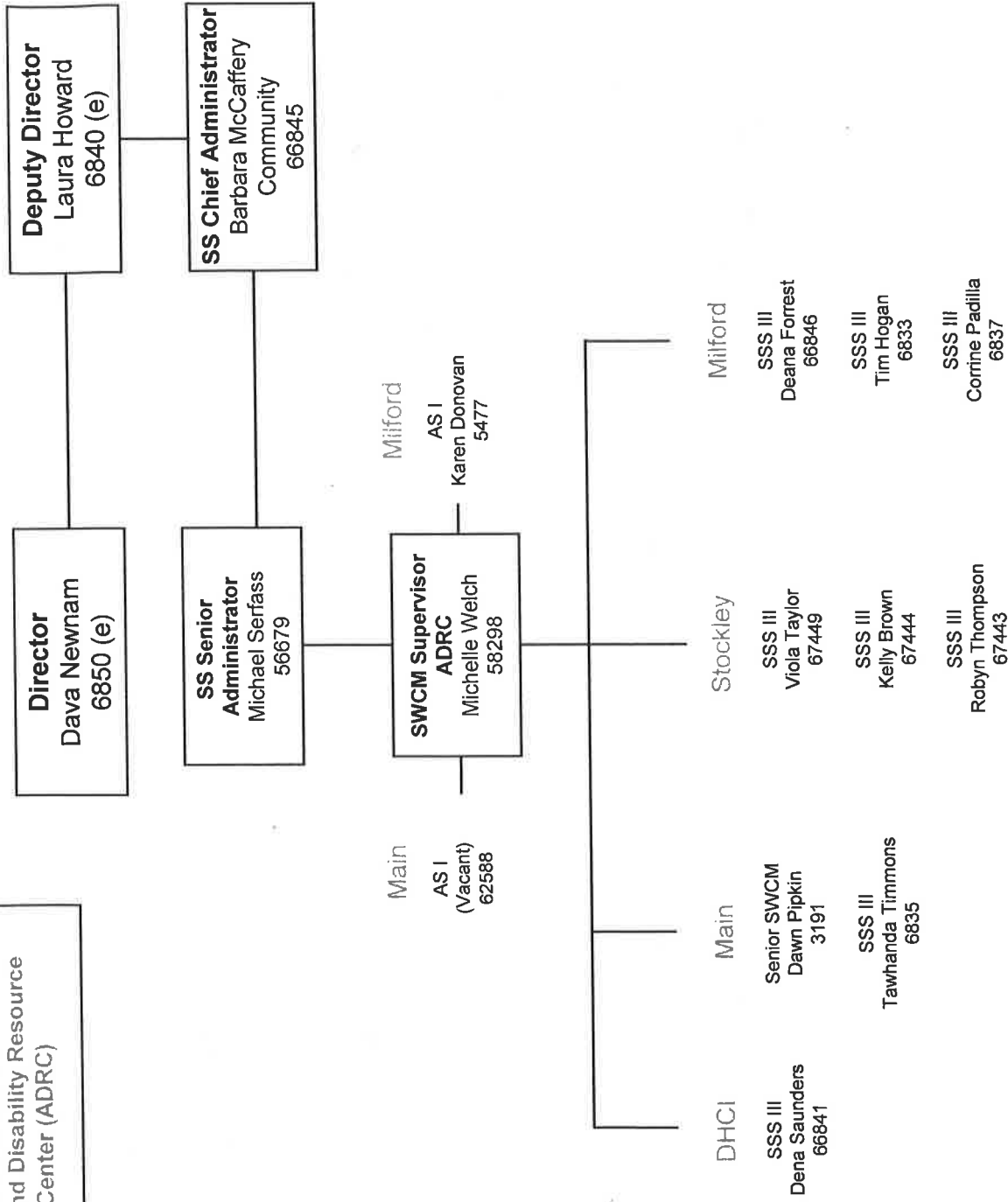
Sussex Family  
Service Specialist  
Sarah Charitable  
96718  
Seasonal

Master Family  
Service Specialist  
Brian Roberts  
53762

Victim Service (VOCA)  
Financial Advocate  
Joanne McKeen  
Temp

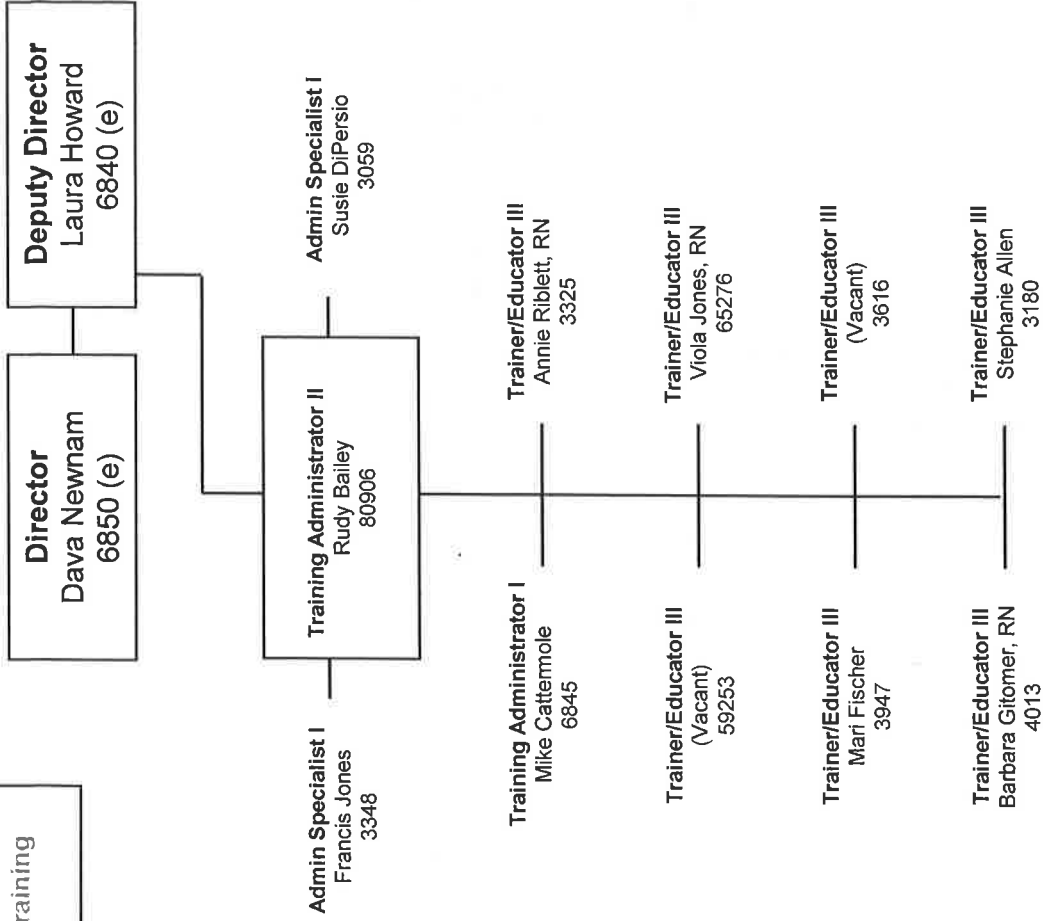


**DHSS/DSAAPD**  
Aging and Disability Resource  
Center (ADRC)



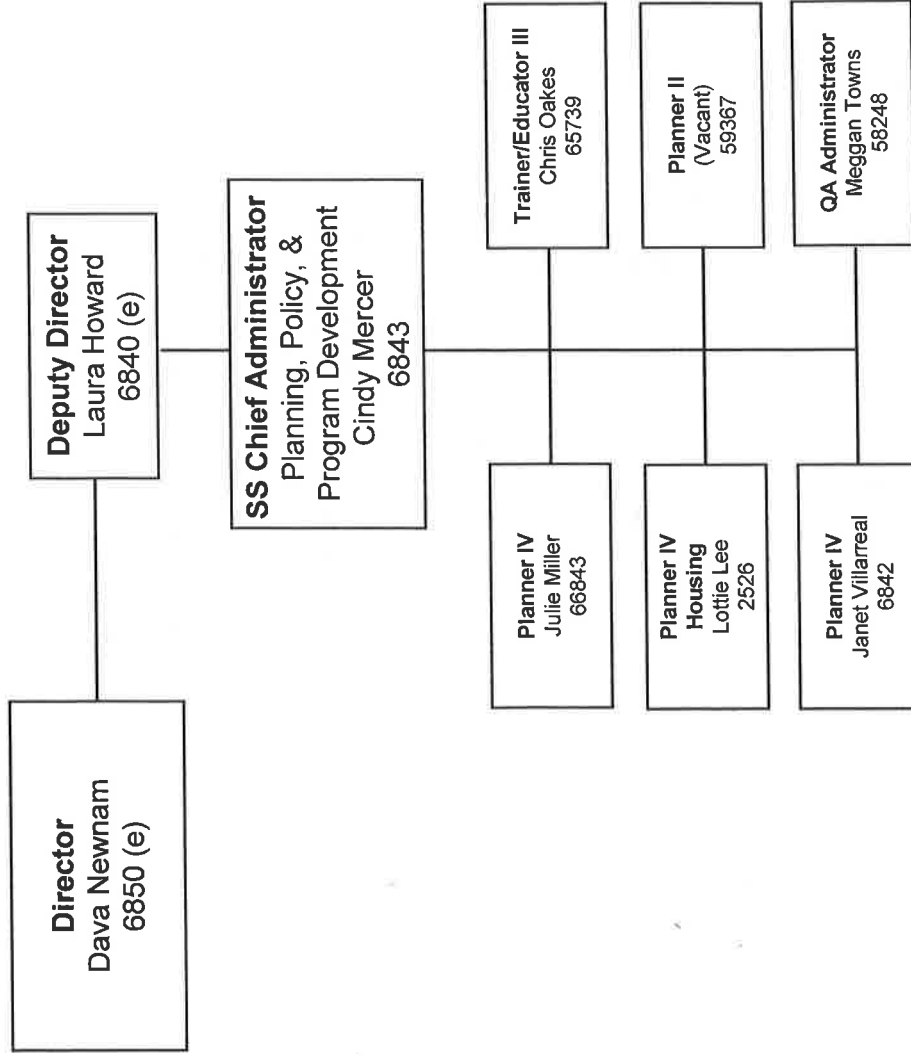


**DHSS/DSAAPD**  
Staff Development and Training



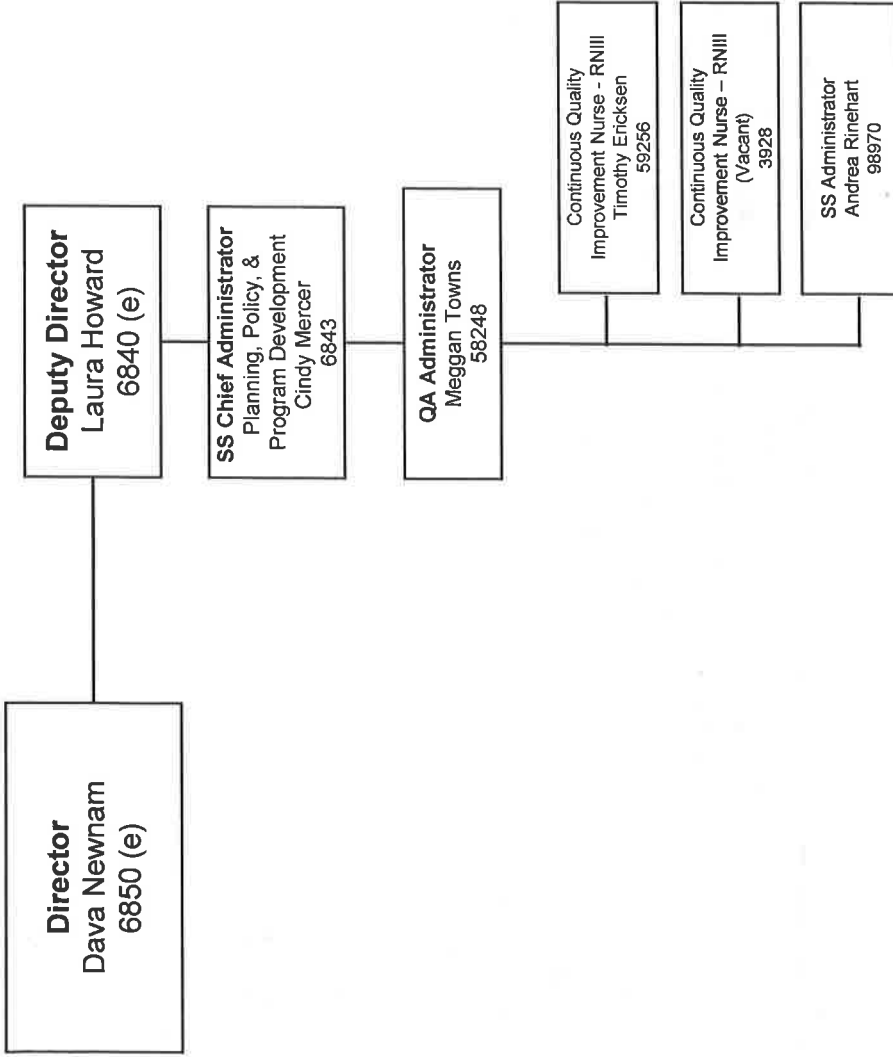


**DHSS/DSAAPD**  
Planning, Policy, and Program  
Development





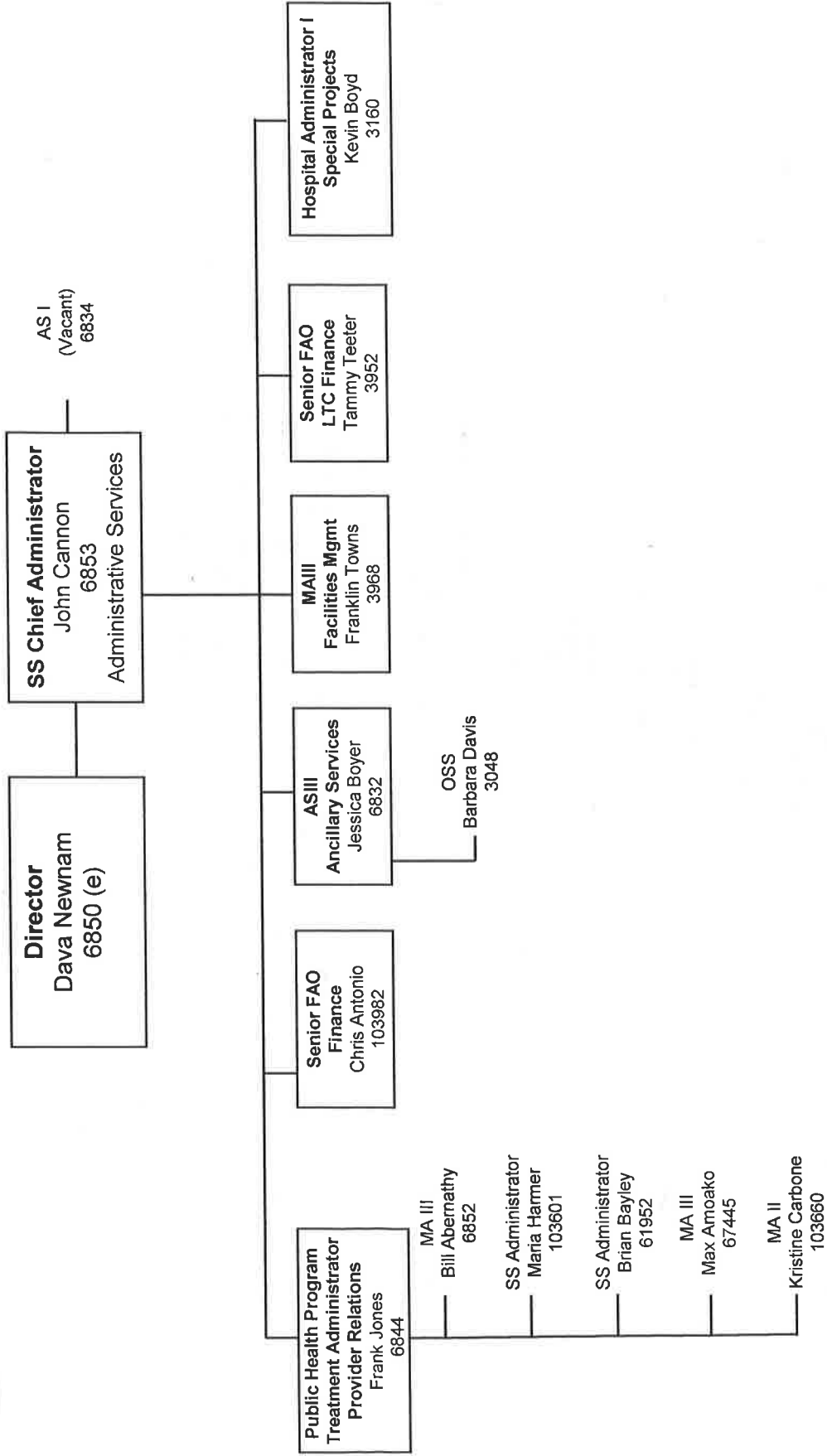
**DHSS/DSAAPD**  
Senior Medicare Patrol &  
LTC Quality Assurance







**DHSS/DSAAPD**  
Administrative Services

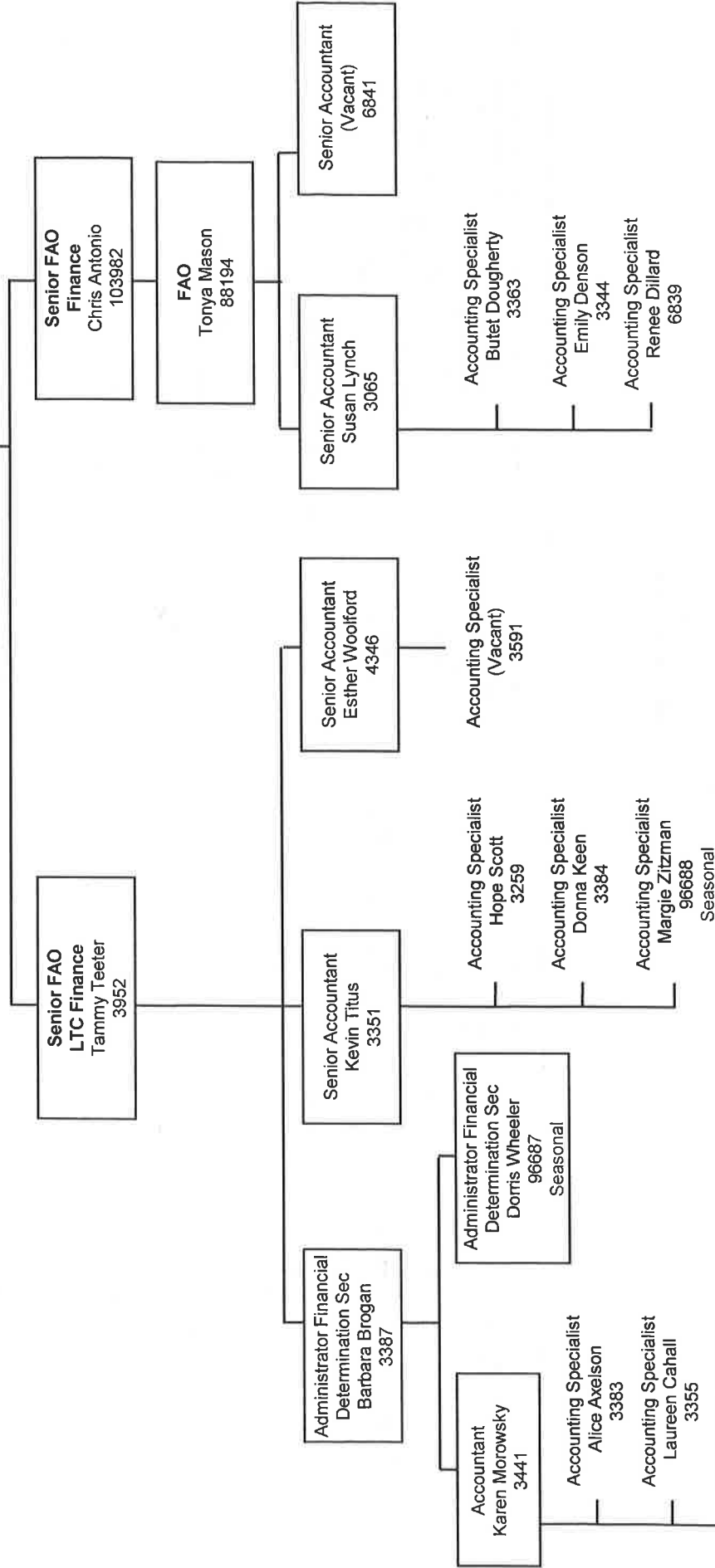




**DHSS/DSAAPD**  
Administrative Services

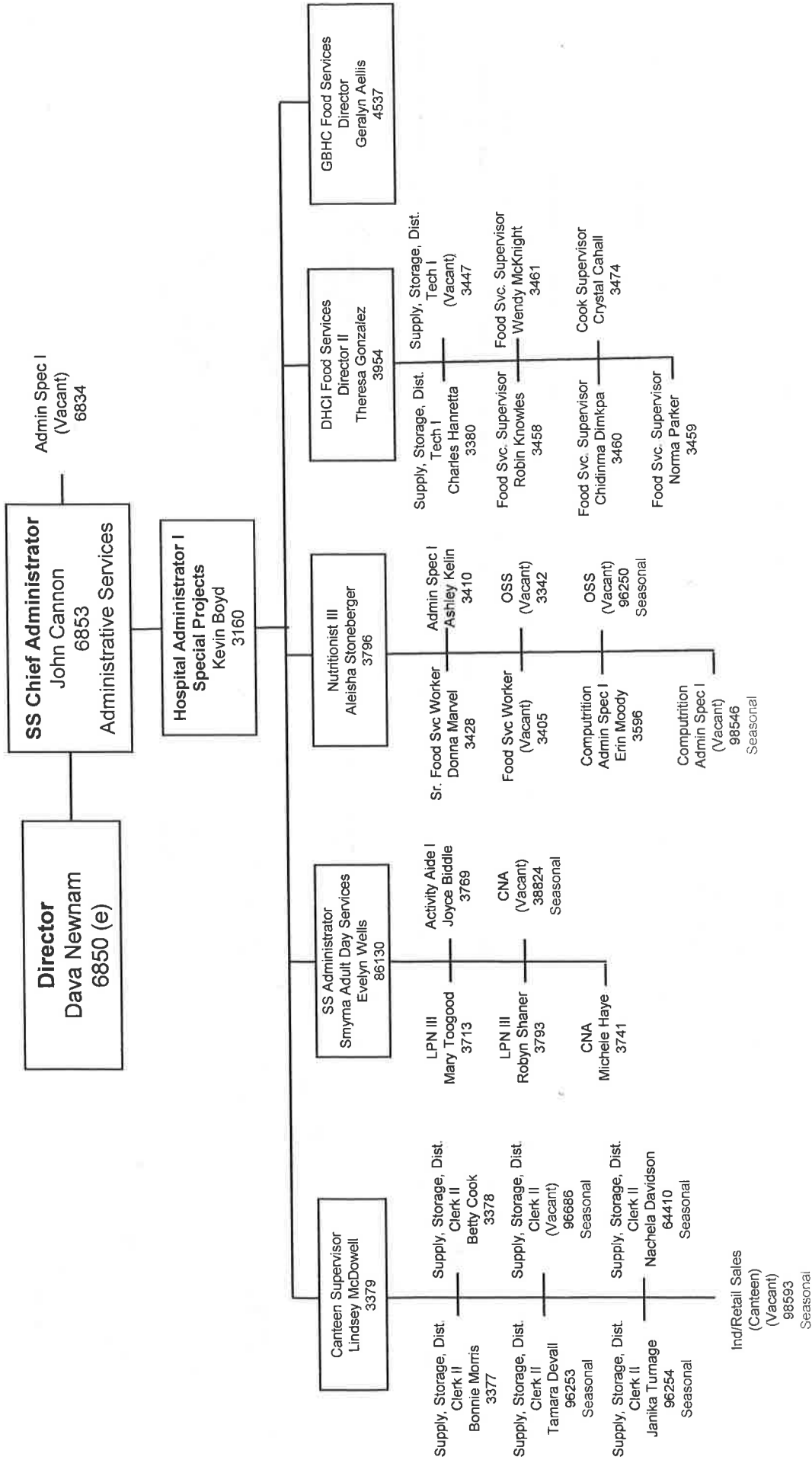
**Director**  
Dava Newnam  
6850 (e)

**SS Chief Administrator**  
John Cannon  
6853  
Administrative Services



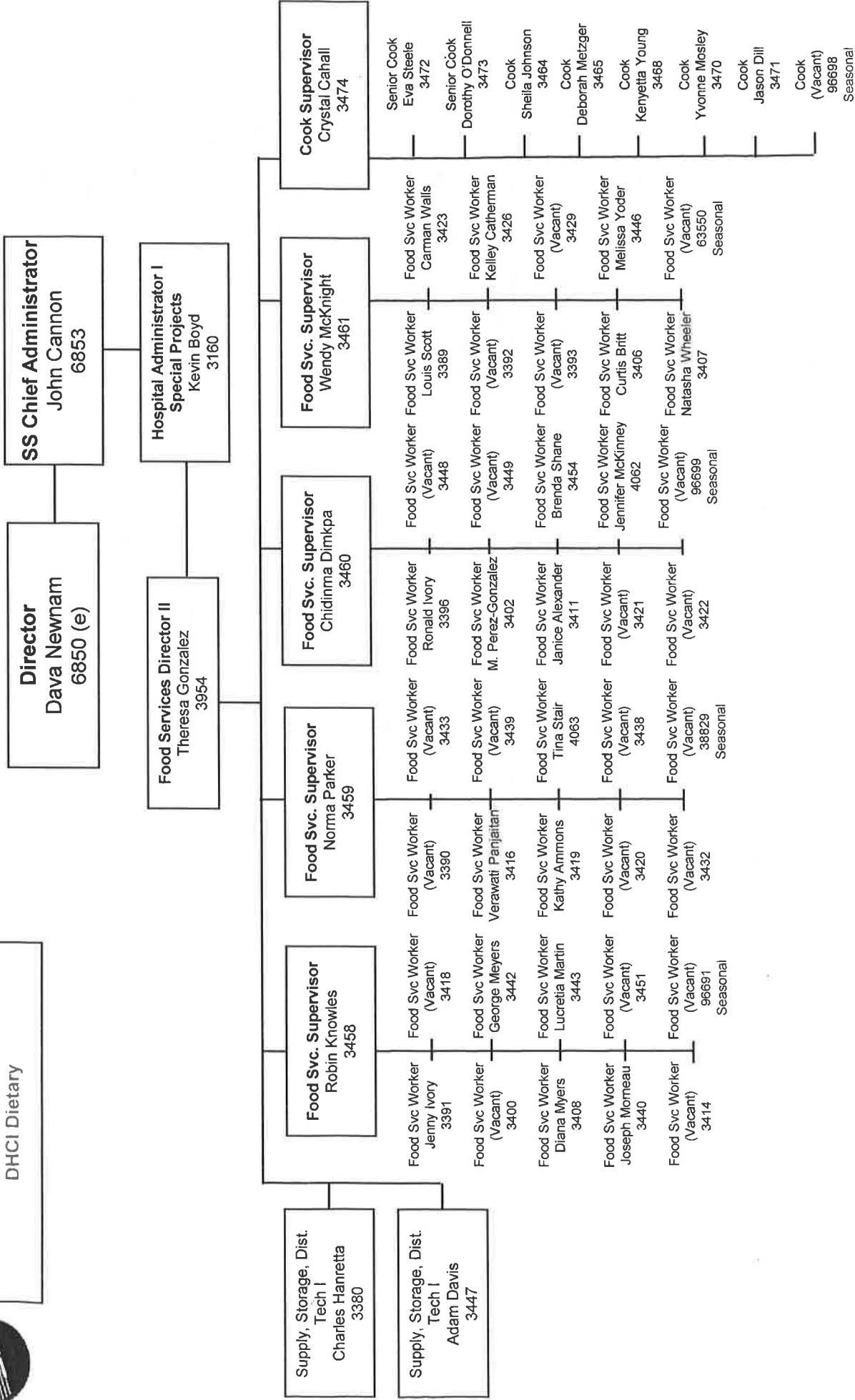


**DHSS/DSAAPD**  
Administrative Services  
Special Projects



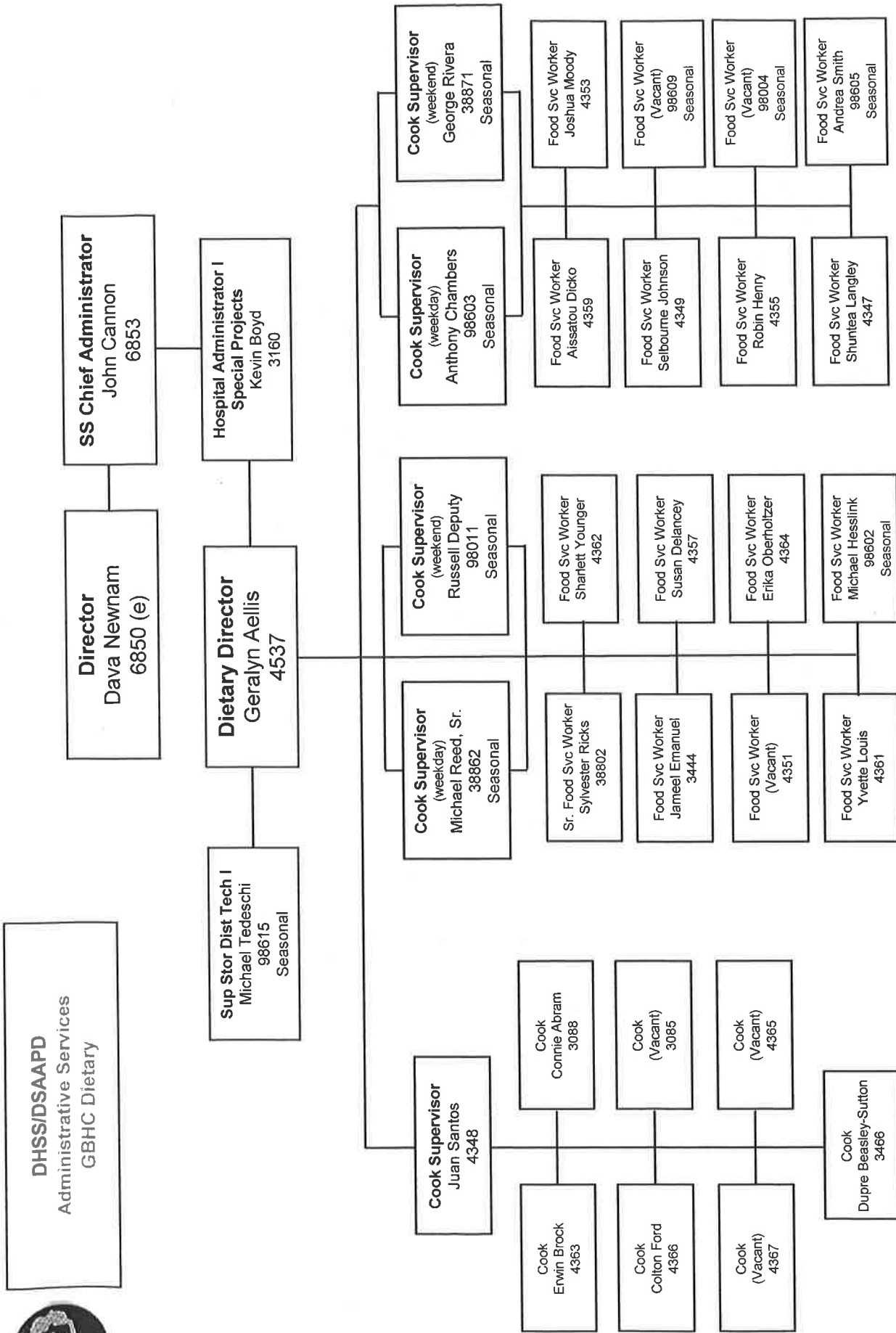


**DHSS/DSAAPD**  
Administrative Services  
DHCI Dietary



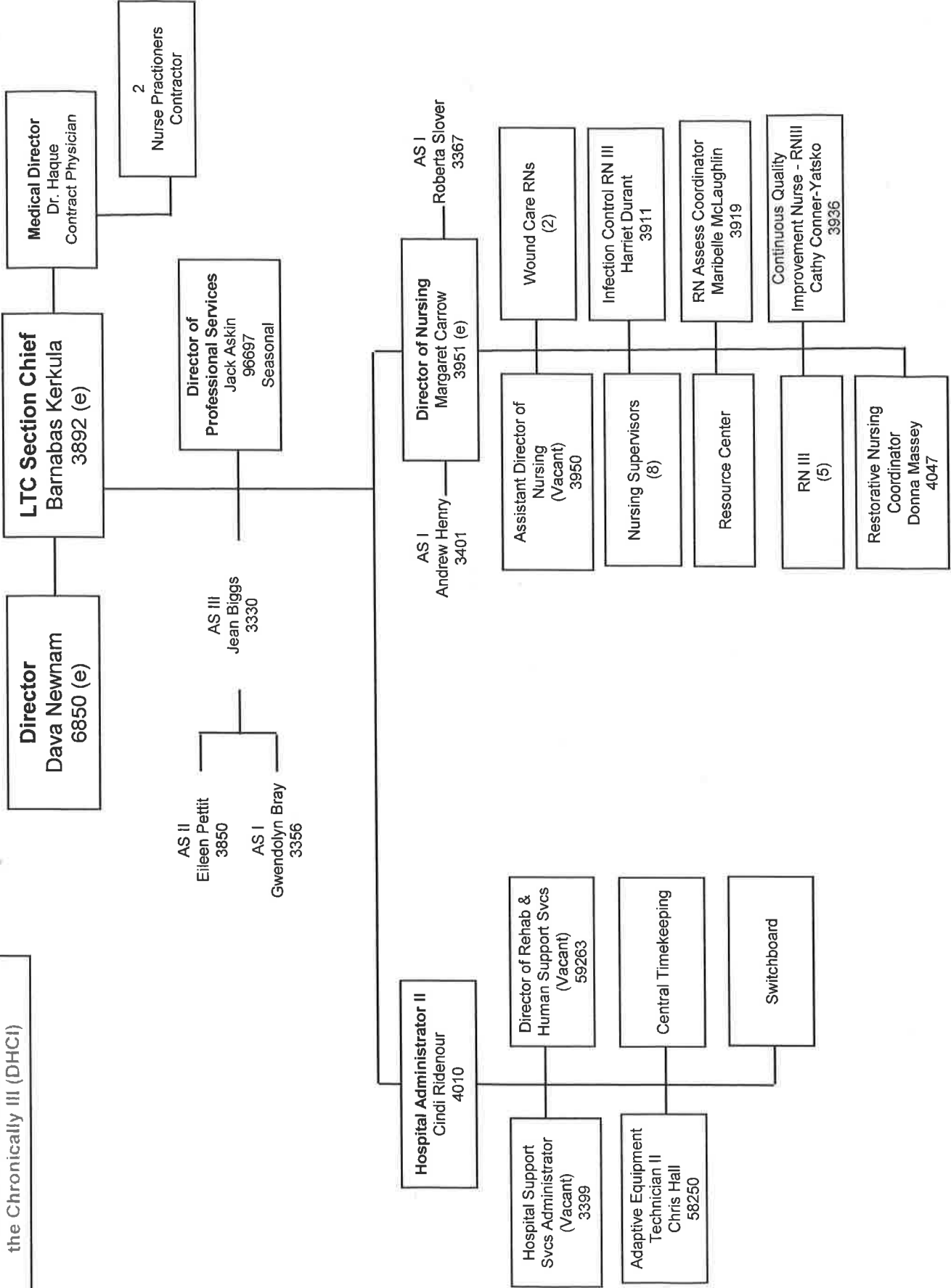


**DHSS/DSAAPD**  
Administrative Services  
GBHC Dietary



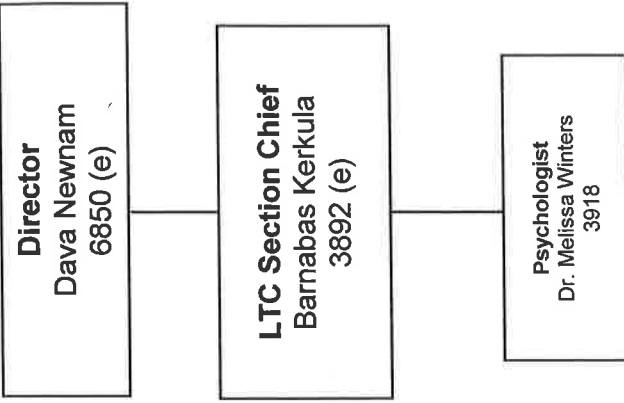


**DHSS/DSAAPD**  
Delaware Hospital for  
the Chronically III (DHCI)



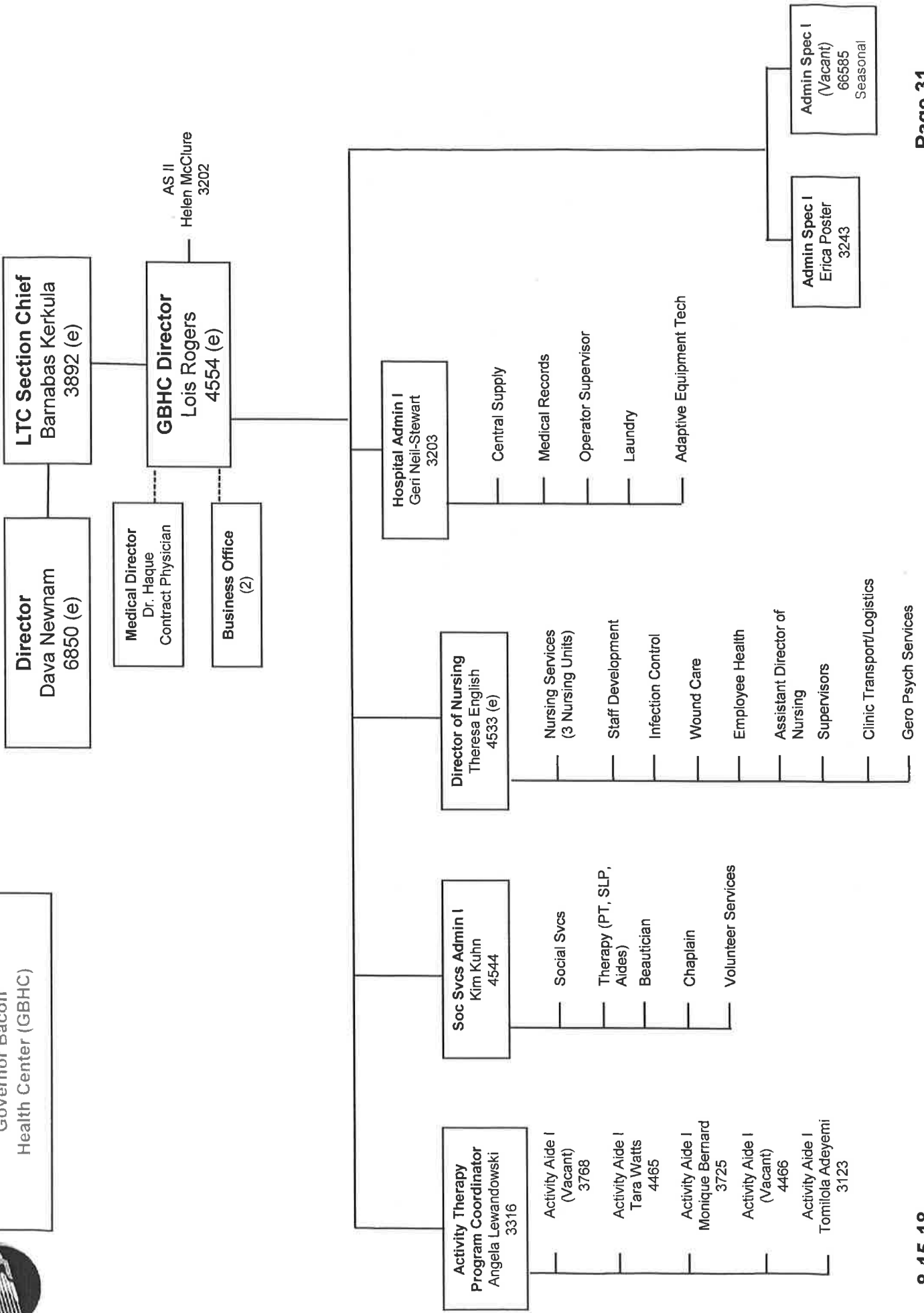


DHSS/DSAAPD  
Delaware Hospital for  
the Chronically III (DHCI)  
Gero Psych Team





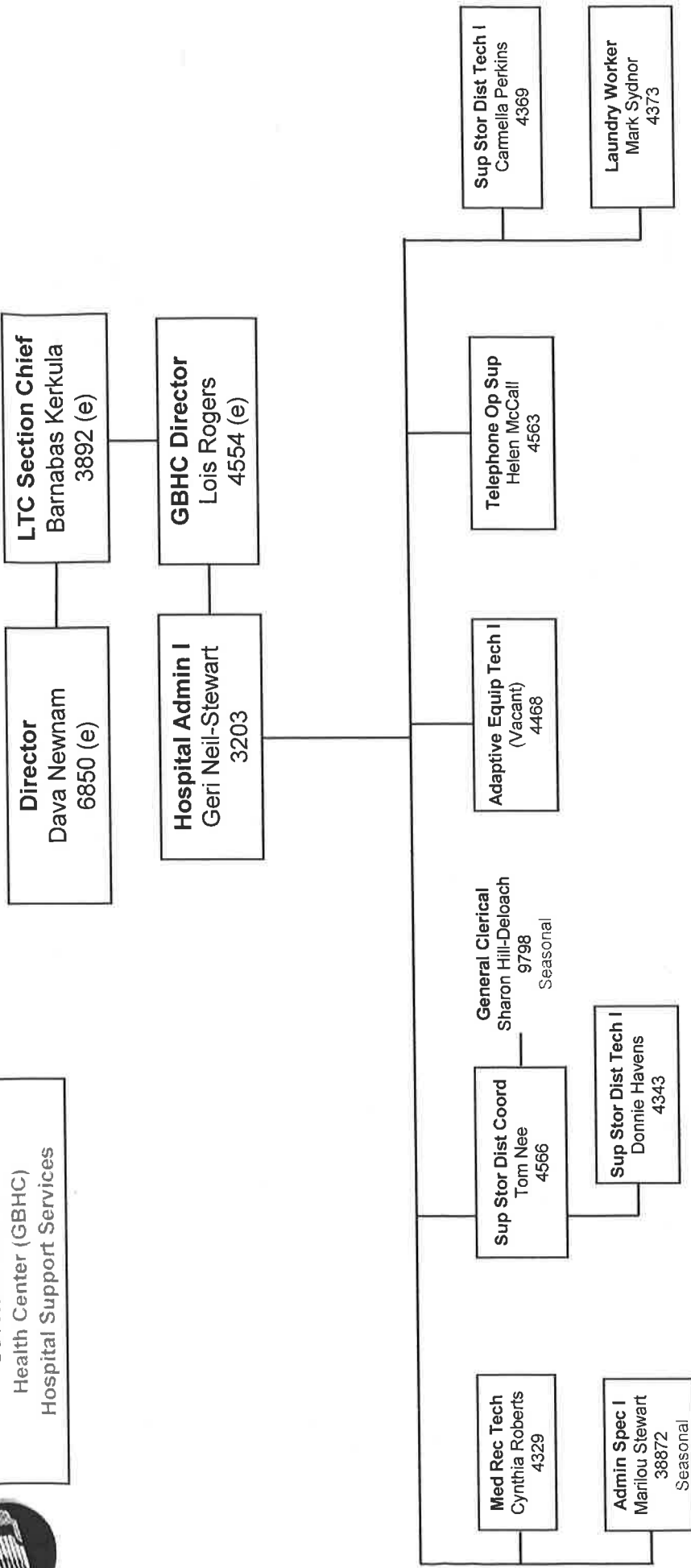
**DHSS/DSAAPD**  
Governor Bacon  
Health Center (GBHC)







**DHSS/DSAAPD**  
Governor Bacon  
Health Center (GBHC)  
Hospital Support Services



## **APPENDIX D**

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### **POLICY AND PROCEDURE MANUAL SELECTIONS**

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# Adult Protective Services Policy and Procedure Manual

**SECTION:** Referrals and Screening

**SUBJECT:** Referral Process

**NUMBER:** 600

**DATE REVISED:** 03/19/2019

## I. POLICY/POSITION STATEMENT

It is the policy of Adult Protective Services that the program will receive initial reports of abuse, neglect and/or exploitation of infirm adults through the Harmony for APS system, or if a financial institution, through a fax using appropriate forms. Any person having reasonable cause to believe that an adult person is infirm or incapacitated and is in need of protective services shall report such information to the Aging and Disability Resource Center (ADRC) hotline.

## II. PROCEDURES

ACTION	RESPONSIBLE PARTY
All non-financial institution referrals to APS are to be made through the ADRC, by calling 1-800-223-9074. Anonymous reports are to be accepted. The ADRC will enter all information necessary to make a referral into the WellSky Aging & Disability system.	ADRC Program Administrator
Financial institutions will refer possible financial exploitation reports using the Report of Suspected Financial Exploitation form, found on the DSAAPD webpage and emailed to APS.	Program Administrator
Referrals will not be accepted unless they come from ADRC or Report of Suspected Financial Exploitation form.	Program Administrator
Any suspected abuse, neglect and/or exploitation will be referred to APS. If the ADRC worker is unclear if the claim qualifies for an APS investigation, the referral will be sent to APS for screening.	ADRC Program Administrator
Reports concerning abuse, neglect and/or exploitation of adults residing in a licensed family care home should be referred to the Division of Health Care Quality.	ADRC Program Administrator

## III. SCOPE

The ADRC Program Administrator has direct responsibility for ensuring that all suspected reports of abuse, neglect and/or exploitation are referred to APS for possible investigation. All ADRC program staff are responsible for entering these reports into the referral system.

## IV. RELATED DOCUMENTS

[Report of Suspected Financial Exploitation Form](#)

## V. OTHER REFERENCES

None.



# Adult Protective Services Policy and Procedure Manual

**SECTION:** Referrals and Screening

**SUBJECT:** Intake and Screening Process

**NUMBER:** 601

**DATE REVISED:** 11/29/2017

## I. POLICY/POSITION STATEMENT

It is the policy of Adult Protective Services that the program will screen all referred suspected reports of abuse, neglect and/or exploitation for possible investigation by APS. If the report is appropriate for APS investigation, the report will be assigned to an APS investigator. If the report is not appropriate, it will be referred to another service provider so that additional supports may be arranged for the alleged victim.

## II. PROCEDURES

ACTION	RESPONSIBLE PARTY
Reports will be screened by APS Screeners to determine if: <ul style="list-style-type: none"><li>• The referral is appropriate and meets APS Program criteria.</li><li>• The report is factually based.</li></ul> Screening will take place within the Harmony for APS system.	APS Screeners
Reports deemed inappropriate for the APS Program will be referred to another more appropriate agency, and the reason for that determination as well as any referral information will be documented. These reports may be referred to other social, legal, or medical resources at any time during the intake or assessment process.	APS Screeners
Reports will be prioritized in the following manner: <ul style="list-style-type: none"><li>• Physical abuse - In situations where the alleged victim is being or has been subject to unnecessary infliction of pain or injury requiring immediate intervention due to recent:<ul style="list-style-type: none"><li>○ bruises, welts, cuts</li><li>○ fractures, sprains, dislocations burns, scalding</li><li>○ Chemical restraints (unless medically prescribed)</li><li>○ physical restraints</li></ul></li><li>• Sexual Abuse/Exploitation – examples include but not limited to:<ul style="list-style-type: none"><li>○ Fondling</li><li>○ posing for pictures</li><li>○ masturbation</li><li>○ intercourse (anal or vaginal)</li><li>○ oral sex</li></ul></li><li>• Neglect-In these situations the caregiver is failing to provide for his alleged victim's physical needs and safety, such as:<ul style="list-style-type: none"><li>○ Food - evidenced by nutritional deficiency, deterioration of health, reduced mobility.</li><li>○ Clothing - undue exposure to elements of heat or cold evidenced by exposure to extreme temperature, poor ventilation, hypothermia inappropriate clothing.</li></ul></li></ul>	APS Screeners



## Adult Protective Services Policy and Procedure Manual

<ul style="list-style-type: none"><li>○ Shelter - undue exposure to elements or hazards, such as fire, injury disease or the environmental hazards present.</li><li>○ Medication - withholding of prescribed medication critical for sustaining a medical condition.</li><li>○ Inadequate supervision - Adult has lost or reduced supervision of medication and/or personal care because caregiver is absent.</li><li>○ Toileting</li><li>○ Bathing</li><li>● Financial exploitation - the illegal or improper use or abuse of an infirm person's resources by another person, whether for profit or other advantage.</li><li>● Psychological Abuse - a pattern of emotional abuse, which includes, but is not limited to, ridiculing or demeaning an infirm adult, making derogatory remarks, or cursing or threatening to inflict physical or emotional harm.</li><li>● Inadequate Self Care - the alleged victim lacks capacity in their ability to plan and/or care for self and unable to secure essential service, i.e. medical treatment, in home services and etc. Examples include:<ul style="list-style-type: none"><li>○ Refusal to eat/drink</li><li>○ Refusal to take medication</li><li>○ Alcohol/drug abuse</li><li>○ Poor money management</li><li>○ Refusal to accept supervised living arrangements</li><li>○ Hazardous living conditions to include but not limited to:<ul style="list-style-type: none"><li>■ no food</li><li>■ no medication</li><li>■ no heat</li><li>■ no electricity</li><li>■ unsanitary living conditions</li><li>■ inadequate personal care</li></ul></li></ul></li><li>● Disruptive behavior-situations in which the adult is exhibiting behavior that is unacceptable to others and failure to intervene may result in eviction or arrest. Examples include:<ul style="list-style-type: none"><li>○ Auditory or visual hallucinations</li><li>○ Frequent calls to neighbors, relatives, landlord, police or fire departments without appropriate cause.</li><li>○ Behavior which raises concerns of the community or others.</li></ul></li></ul>	APS Screeners
If a referral is determined to meet APS criteria, the APS Screening will assign the report to an APS Investigator.	APS Screener



## **Adult Protective Services Policy and Procedure Manual**

### **III. SCOPE**

The Program Administrator or designee has direct responsibility for ensuring that all suspected reports of abuse, neglect and/or exploitation are screened appropriately by APS Screeners and if screened in, assigned to APS Investigators, and if screened out, referred to appropriate service providers.

### **IV. RELATED DOCUMENTS**

DE APS Training Manual for Screening Workers

### **V. OTHER REFERENCES**

None.



# Adult Protective Services Policy and Procedure Manual

**SECTION:** Investigation

**SUBJECT:** Home Visits and Assessments

**NUMBER:** 700

**DATE REVISED:** 10/18/2018

## I. POLICY/POSITION STATEMENT

It is the policy of Adult Protective Services that the program will investigate all reports of abuse, neglect and/or exploitation of infirm adults that have been determined to meet APS criteria. Investigations consist of in person visits with an alleged victim and the completion of several assessments, all done in the Harmony for APS system.

## II. PROCEDURES

ACTION	RESPONSIBLE PARTY
Once a report of abuse, neglect and/or exploitation has been determined to meet APS criteria and referred to an APS investigator, the investigator must make an in-person contact with the alleged victim within a set amount of days, based on the priority level: <ul style="list-style-type: none"><li>• Emergency – Within 24 hours</li><li>• Priority 1 – 1 to 3 business days</li><li>• Priority 2 – Within 5 business days</li></ul> Physical abuse, sexual abuse and severe neglect will be an Emergency priority level. All other abuse and neglect will be a Priority 1 priority level. Financial exploitation will be a Priority 2 Priority level. If any questions exists regarding the determination or existence of an emergency situation, the APS Supervisor or Program Administrator should be contacted.	APS Investigator
An adult will not be considered to be abused, mistreated, neglected, infirm or incapacitated or in need of protective services for the sole reason they rely upon, or is being furnished with, treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination; nor shall anything in these procedures be construed to authorize or require any medical care or treatment over the implied or express objections of said person.	APS Investigator
The investigator should not enter the home of an un-consenting adult or the home of an adult whose caregiver does not consent to entrance unless there is police involvement.	APS Investigator
If the investigator cannot gain entry and has reason to believe an emergency exists, they should follow the procedures outlined in Subsection 703 for immediate assistance.	APS Investigator





## Adult Protective Services Policy and Procedure Manual

ACTION	RESPONSIBLE PARTY
<p>If the investigator cannot gain entry, they must retry an in-person contact with the alleged victim within a set amount of days, based on the priority level:</p> <ul style="list-style-type: none"><li>• Emergency and Priority 1– The next business day after the first attempt before noon. If the investigator still cannot make contact with the alleged victim, they must try to make contact again before 4:30 pm the same day. If the third contact attempt fails, the investigator shall contact law enforcement for a well-being check of the alleged victim.</li><li>• Priority 2 – Within 5 business days after the first attempt. If the investigator still cannot make contact with the alleged victim, they must try to make contact again within 5 more business days. If the third contact attempt fails, the investigator may close the case.</li></ul> <p>Investigators will leave their contact information and reason for trying to make contact with the alleged victim at the last known address of the victim. The investigator will also contact known collateral contacts (referral source, neighbors, etc.) within the original set amount of days, based on priority level:</p> <ul style="list-style-type: none"><li>• Emergency – Within 24 hours</li><li>• Priority 1 – 1 to 3 business days</li><li>• Priority 2 – Within 5 business days</li></ul>	APS Investigator
<p>The investigator will evaluate information gathered from the report and any information available from collateral contacts. If the situation is urgent, the investigator will consult with the APS Supervisor and take appropriate emergency action as outlined in Subsection 703.</p>	APS Investigator
<p>The investigator will interview collateral contacts to gain greater understanding of the alleged victim's situation. Contacts may include, but not limited to: legal professionals, social service professionals, medical professionals, police, neighbors, friends, and relatives.</p>	APS Investigator
<p>An Authorization for Release of Information form, located within Harmony for APS, will be received from the alleged victim when requesting confidential information from collateral contacts. If the alleged victim is unable to consent, a release of information form can be signed by their legal representative.</p>	APS Investigator



## Adult Protective Services Policy and Procedure Manual

ACTION	RESPONSIBLE PARTY
<p>As deemed appropriate, the investigator will inform the alleged victim or legal representative of the investigator's intention to contact the collateral contacts. Collateral contacts are not to be made without the alleged victim's knowledge unless:</p> <ul style="list-style-type: none"><li>• The investigator has reason to believe that a serious emergency exists which endangers the health and safety of the alleged victim.</li><li>• The investigator had made an attempt to inform the alleged victim of the intent to make collateral contacts.</li><li>• The investigator had doubts concerning the reliability of the complainant or the information given.</li><li>• The investigator lacks sufficient information to evaluate the seriousness of the report or the appropriateness of the referral.</li></ul>	APS Investigator
<p>The investigator is to complete all required screens and assessments with any available information through the Harmony for APS system, using an APS assigned tablet. The following forms are required to be completed by the end of the first visit:</p> <ul style="list-style-type: none"><li>• Documentation of the 1<sup>st</sup> Visit</li><li>• Risk Assessment</li><li>• Functional Assessment</li></ul> <p>All required screens and assessments must be completed before an investigator meets with a different alleged victim.</p>	APS Investigator
<p>If the investigator does not have access to the internet, they are to complete all forms and assessments using the electronic word versions found on the tablet. Once the investigator has access to the internet, they must put the information from the electronic word versions into the Harmony for APS system.</p>	APS Investigator
<p>Investigators are required to maintain monthly follow-up contacts with alleged victims throughout the investigation process.</p>	APS Investigator
<p>Investigations should be conclude within 90 days, however, investigators can request additional time through the Harmony for APS system.</p>	APS Investigator

### III. SCOPE

All employees of the Adult Protective Services program who investigate reports of abuse, neglect and/or exploitation in the field.

### IV. RELATED DOCUMENTS

DE APS Training Manual for Investigators



## **Adult Protective Services Policy and Procedure Manual**

### **V. OTHER REFERENCES**

None.



# Adult Protective Services Policy and Procedure Manual

<b>SECTION:</b> Investigation	<b>SUBJECT:</b> Service Delivery
<b>NUMBER:</b> 701	<b>DATE REVISED:</b> 11/29/2017

## I. POLICY/POSITION STATEMENT

It is the policy of Adult Protective Services that the program will adequately provide service planning for alleged victims of abuse, neglect and/or exploitation in need of protective services.

## II. PROCEDURES

<b>ACTION</b>	<b>RESPONSIBLE PARTY</b>
When the investigator has determined that the alleged victim is in need of protective services, the investigator will establish a service plan within five (5) days of a home visit.	APS Investigator
The service plan is developed in conjunction with the alleged victim, their legal guardian or designed representative. Collateral contacts may provide valuable input in assisting the investigator in the development of the service plan.	APS Investigator
If emergency protective placement is required in either the Delaware Hospital for the Chronically Ill or the Governor Bacon Health Center, the investigator must get prior approval from the DSAAPD Director before placement. The investigator should contact the APS Supervisor to acquire approval. At placement, the investigator must provide known medical information, financials, and information on the alleged perpetrator.	APS Investigator
The investigator and APS Supervisor will review the service plan and case progress on a weekly basis or as needed.	APS Investigator
Recommended documentation of a service plan should include: <ul style="list-style-type: none"><li>• Identification of problems.</li><li>• Identification of behaviors or conditions which need to be changed in order to resolve the problem.</li><li>• Goals for resolving each problem:</li><li>• Specific services to be utilized.</li><li>• Identification of who is responsible for what activities.</li><li>• Time frame for completing goals to resolve the problem.</li></ul>	APS Investigator
The APS investigator may provide short term case management services; however, if it is determined that alleged victim may require long term case management the investigator should refer the alleged victim to another unit within DSAAPD or another appropriate agency.	APS Investigator
An APS Nurse or Financial Advocate may assist in service delivery, depending on the abuse, neglect or exploitation of the alleged victim and the needed services.	APS Nurse or Financial Advocate



## **Adult Protective Services Policy and Procedure Manual**

### **III. SCOPE**

All employees of the Adult Protective Services program who investigate reports of abuse, neglect and/or exploitation in the field.

### **IV. RELATED DOCUMENTS**

None.

### **V. OTHER REFERENCES**

None.



# Adult Protective Services Policy and Procedure Manual

**SECTION:** Investigation

**SUBJECT:** Voluntary Services

**NUMBER:** 702

**DATE REVISED:** 11/29/2017

## I. POLICY/POSITION STATEMENT

It is the policy of Adult Protective Services that the program will provide services in a voluntary manner only, unless involuntary services are needed for the safety of the alleged victim.

## II. PROCEDURES

ACTION	RESPONSIBLE PARTY
Any persons meeting the criteria for protective services may receive services provided the person requests or affirmatively consents to receive these services. If the person withdraws or refuses to consent, the services shall not be provided.	APS Investigator
No person shall interfere with the provision of protective services to a person who requests or consents to receive such services. In the event that interference occurs on a continuing basis, the Department or the service recipient may petition the Court to cease such interference.)	APS Investigator
Adult Protective Services shall use person centered planning at all times, consulting the alleged victim in service delivery. The investigator will consider the alleged victim's capacity to consent. Consideration must be given to the degree to which the alleged victim's decision making capacities may be impaired. If a question exists regarding the alleged victim's ability to provide informed consent, the APS Investigator should seek input from other appropriate professionals such as Primary Care Physician, Psychiatrist or Neurologist.	APS Investigator
Adults receiving voluntary protective services have the right, at any time, to refuse services. If the alleged victim refuses services, the investigator will request that the alleged victim sign a Refusal of Investigation Services form.	APS Investigator

## III. SCOPE

All employees of the Adult Protective Services program who investigate reports of abuse, neglect and/or exploitation in the field.

## IV. RELATED DOCUMENTS

None.

## V. OTHER REFERENCES

Delaware Code for Adult Protective Services



# Adult Protective Services Policy and Procedure Manual

**SECTION:** Investigation

**SUBJECT:** Involuntary Services

**NUMBER:** 703

**DATE REVISED:** 11/29/2017

## I. POLICY/POSITION STATEMENT

It is the policy of Adult Protective Services that the program will provide services in a voluntary manner only, unless involuntary services are needed for the safety of the alleged victim.

## II. PROCEDURES

ACTION	RESPONSIBLE PARTY
Every attempt will be made to provide services in a voluntary manner, however, if a person lacks the capacity to consent to receive protective services, these services may only be given in one or more of the following ways: <ul style="list-style-type: none"><li>• By a police officer, on probable cause of death or immediate and irreparable physical injury.</li><li>• By the Delaware Attorney General or a Deputy Attorney General.</li><li>• By an emergency order of the court.</li><li>• By the appointment of a guardian.</li><li>• By a social service worker on probable cause of death or immediate and irreparable physical injury.</li></ul>	APS Investigator
APS shall investigate, and if involuntary protective services are needed on a continuing basis for a person so transported to a medical facility or emergency shelter by a peace officer, proceedings shall be initiated for supplying such services.	APS Investigator
When the investigator has probable cause to believe that a person will suffer immediate and irreparable physical injury or death if not immediately placed in a health care facility or other emergency shelter and that person is incapable of giving consent the investigator will: <ul style="list-style-type: none"><li>• Seek the advice of the APS Supervisor or Program Administrator.</li><li>• Contact a police officer who may transport the person to an appropriate medical facility or other emergency shelter as soon as possible.</li><li>• The APS Supervisor or Program Administrator will contact the Attorney General's Office as soon as possible, so they may petition the court for an emergency order to provide protective services on a continuing basis if needed.</li></ul>	APS Investigator
Protective services authorized by an emergency order shall not include hospitalization or change in residence unless the court specifically finds such action is necessary and gives specific approval for such action in its order.	APS Investigator



## Adult Protective Services Policy and Procedure Manual

ACTION	RESPONSIBLE PARTY
Protective services may be provided through an emergency order for a maximum of 90 days upon showing to the court that continuation of the original order is necessary to remove the emergency. During this period the infirm person may petition the court to have the emergency order removed.	APS Investigator
An investigator will have the following information available when contacting the Delaware Attorney General or Deputy Attorney General to file a petition: <ul style="list-style-type: none"><li>• A Physician's Affidavit, verifying that the alleged victim lacks the capacity to consent to services.</li><li>• A guardianship checklist prepared by the investigator and reviewed and approved by the APS Supervisor or Program Administrator.</li><li>• An affidavit from the investigator who prepared the guardianship checklist verifying that the information contained therein is factual to the best knowledge and belief of the investigator.</li></ul>	APS Investigator

### III. SCOPE

All employees of the Adult Protective Services program who investigate reports of abuse, neglect and/or exploitation in the field.

### IV. RELATED DOCUMENTS

None.

### V. OTHER REFERENCES

Delaware Code for Adult Protective Services





# Adult Protective Services Policy and Procedure Manual

**SECTION:** Investigation

**SUBJECT:** Consultant Services

**NUMBER:** 704

**DATE REVISED:** 11/29/2017

## I. POLICY/POSITION STATEMENT

It is the policy of Adult Protective Services that the program may seek assistance from medical professionals for evaluation of alleged victims. These evaluations may assist the investigator in the identification of specific problems, identification of the impact of those problems as well as identification of possible modes of treatment.

## II. PROCEDURES

ACTION	RESPONSIBLE PARTY
If the investigator believes a psychological, psychiatric or medical evaluation is needed, the investigator contact the APS Supervisor. If the evaluation is necessary, the Investigator will: <ul style="list-style-type: none"><li>• Discuss the need for evaluation with the alleged victim.</li><li>• If the alleged victim agrees to proceed with the evaluation, the investigator will, if necessary, explain any associated costs.</li><li>• The APS Investigator will assist the alleged victim in contacting an appropriate consultant, providing required information and, if necessary, transporting the alleged victim to the appointment.</li></ul>	APS Investigator
If a competency hearing must be held concerning the alleged victim, the law states that an alleged victim shall be allowed to arrange for an independent psychological or medical evaluation. If the alleged victim requests assistance in arranging for the evaluation, the investigator will: <ul style="list-style-type: none"><li>• Arrange transportation to the site of the evaluation, if necessary.</li><li>• Arrange for the State to pay for the evaluation if the alleged victim is indigent. This service shall be provided to the extent that funding is appropriated and sufficient for such services.</li></ul>	APS Investigator

## III. SCOPE

All employees of the Adult Protective Services program who investigate reports of abuse, neglect and/or exploitation in the field.

## IV. RELATED DOCUMENTS

None.

## V. OTHER REFERENCES

Delaware Code for Adult Protective Services



# Adult Protective Services Policy and Procedure Manual

**SECTION:** Investigation

**SUBJECT:** Health Treatment Guidelines: Emergency

**NUMBER:** 705

**DATE REVISED:** 11/29/2017

## I. POLICY/POSITION STATEMENT

It is the policy of Adult Protective Services that, in the event of an emergency, the program will seek necessary health treatment services in a voluntary manner only, unless involuntary services are needed for the safety of the alleged victim.

## II. PROCEDURES

ACTION	RESPONSIBLE PARTY
After receiving a report regarding an emergency situation, the Investigator will contact the alleged victim within the same working day.	APS Investigator
In the event the Investigator is unable to gain entrance to the alleged victim's home, the investigator should contact police. As necessary, the Court of Chancery may authorize forcible entry by the police.	APS Investigator
After gaining entrance to the home and determining that an emergency requiring removal from the home does exist, the Investigator should take the following steps: <ul style="list-style-type: none"><li>• Voluntary Services:<ul style="list-style-type: none"><li>○ Determine appropriate treatment facility and assist in making necessary arrangements.</li><li>○ Arrange for transportation to the treatment facility enlisting the aid of family, neighbors, police or other appropriate services, if necessary.</li></ul></li><li>• Involuntary Services:<ul style="list-style-type: none"><li>○ Verify whether or not there is an available and willing person authorized by law or court to give consent for the alleged victim to receive emergency services.</li><li>○ If there is no such person, contact the police and arrange for transporting the alleged victim to an appropriate facility.</li><li>○ Contact APS Supervisor. As required, the APS Supervisor will contact the Attorney General's office as soon as possible.</li></ul></li></ul>	APS Investigator
If the alleged victim is in need of and consents to immediate medical care, the investigator/nurse will: <ul style="list-style-type: none"><li>• Arrange for transportation of alleged victim to appropriate treatment facility by calling 911.</li><li>• Enlist the aid of the police, if necessary.</li></ul>	APS Investigator/Nurse



## Adult Protective Services Policy and Procedure Manual

ACTION	RESPONSIBLE PARTY
<p>In the event that an alleged victim needs immediate medical treatment because of probable cause of death or immediate and irreparable physical injury, and that alleged victim lacks the capacity to consent to or request assistance voluntarily, the investigator will take the following steps:</p> <ul style="list-style-type: none"><li>• Verify whether or not there is an available and willing person authorized by law or court to give consent for the alleged victim to receive emergency services.</li><li>• If there is no such person, contact the police and arrange for transporting the alleged victim to a health care or other appropriate facility. The Court of Chancery may also authorize forcible entry by the police if it is necessary. In these cases the investigator must show that attempts to gain voluntary entry have failed.</li></ul>	APS Investigator
<p>In the event an investigator is in need of assessing and initiating involuntary commitment proceedings for a mental health treatment facility, the investigator shall:</p> <ul style="list-style-type: none"><li>• Determine that the alleged victim may need mental health treatment when the alleged victim:<ul style="list-style-type: none"><li>○ Is confused and disoriented to the extent their wellbeing is threatened, and believed to be dangerous.</li><li>○ Is believed to be dangerous and there is substantial risk they are likely to cause injury or harm to themselves or others in the near future by reasons of having committed recent violent acts or threatened such acts and having made recent attempts at or threatened suicide or other serious bodily harm.</li><li>○ Is refusing to seek voluntary mental health treatment.</li></ul></li><li>• Attempt to consult a physician or a mental health professional about the alleged victim's need for mental health treatment and involuntary commitment.</li><li>• Contact relatives, friends or other interested parties, who are able to make arrangements for initiating involuntary commitment proceedings.</li><li>• If no other interested party exist, the investigator will:<ul style="list-style-type: none"><li>○ Contact the Crisis Intervention Unit.</li><li>○ Provide any available information as to the reason the alleged victim is a danger to themselves or others and sign forms so declaring.</li></ul></li></ul>	APS Investigator



## Adult Protective Services Policy and Procedure Manual

ACTION	RESPONSIBLE PARTY
<p>In the event an investigator/nurse is in need of assessing and initiating involuntary commitment to an approved public treatment facility, the investigator shall:</p> <ul style="list-style-type: none"><li>• Make a determination of need based on if the alleged victim:<ul style="list-style-type: none"><li>○ Is intoxicated and has threatened, attempted or inflicted physical harm on themselves or another person or property, and</li><li>○ Is likely to inflict physical harm on themselves or another person or property unless committed, or</li><li>○ Is incapacitated by alcohol and in need of immediate emergency treatment and care.</li></ul></li><li>• Determine if a physician, spouse, guardian, or relative is available to make written application for emergency treatment.</li><li>• If no other interested party exists the investigator may make written application.</li><li>• The written application shall state the facts to support the need for emergency treatment and be accompanied by a certificate of a certifying physician (other than the physician making application) that within two days of the date of the certificate the physician has examined the alleged victim and detailing the facts supporting the need for emergency treatment.</li><li>• Upon approval of the application, the person may be brought to the facility by a peace officer, health officer, the patient's spouse, guardian or any other interested party if available. The investigator should contact the police to assist in transporting alleged victim.</li><li>• The investigator will contact the facility to insure coordination of services.</li></ul>	APS Investigator/Nurse
In all other emergency situations, the investigator will arrange emergency services, including shelter, food and clothing.	APS Investigator

### III. SCOPE

All employees of the Adult Protective Services program who investigate reports of abuse, neglect and/or exploitation in the field.

### IV. RELATED DOCUMENTS

None.

### V. OTHER REFERENCES

Delaware Code for Adult Protective Services



# Adult Protective Services Policy and Procedure Manual

<b>SECTION:</b> Investigation	<b>SUBJECT:</b> Health Treatment Guidelines: Non-Emergency
<b>NUMBER:</b> 706	<b>DATE REVISED:</b> 11/29/2017

## I. POLICY/POSITION STATEMENT

It is the policy of Adult Protective Services that the program will seek necessary health treatment services in a voluntary manner only, unless involuntary services are needed for the safety of the alleged victim.

## II. PROCEDURES

<b>ACTION</b>	<b>RESPONSIBLE PARTY</b>
<p>In the event that an alleged victim needs, requests, and/or agrees to being hospitalized, the investigator will proceed as follows:</p> <ul style="list-style-type: none"><li>• Verify the need for hospitalization by:<ul style="list-style-type: none"><li>○ Contacting the alleged victim's doctor or,</li><li>○ Arranging for the alleged victim to be examined at a local clinic or other medical facility.</li></ul></li><li>• With the alleged victim's consent, contact members of the alleged victim's informal support network (relatives, neighbors, friends, etc.) if one exist in order to:<ul style="list-style-type: none"><li>○ Inform them of alleged victims condition.</li><li>○ Enlist aid in getting alleged victim to the hospital.</li></ul></li><li>• Find out about alleged victim's method of payment (insurance, Medicare, Medicaid, etc.) and make sure alleged victim has necessary cards when alleged victim goes to hospital.</li><li>• Arrange for transportation to the facility by:<ul style="list-style-type: none"><li>○ Arranging for a relative or friend to transport.</li><li>○ Contacting another agency able to provide medical transportation.</li><li>○ APS providing transportation, if necessary.</li><li>○ Calling an ambulance.</li></ul></li><li>• Find out what, if any, medication the alleged victim is presently using and have alleged victim take it with them to the hospital.</li><li>• If necessary, remain with the alleged victim during the admission process to provide support.</li><li>• Contact hospital to inform them of investigator involvement to facilitate the following:<ul style="list-style-type: none"><li>○ Monitor alleged victim's condition.</li><li>○ Assist the alleged victim in planning for taking care of personal affairs while in hospital.</li><li>○ Assist the alleged victim with plans for discharge.</li></ul></li></ul>	APS Investigator



## Adult Protective Services Policy and Procedure Manual

ACTION	RESPONSIBLE PARTY
<p>When the alleged victim or other individuals are not in immediate danger and the alleged victim needs, request, and/or agrees to mental health treatment, the investigator will:</p> <ul style="list-style-type: none"><li>• Consult with a mental health professional regarding the need for mental health treatment. If necessary, the investigator will attempt to gain the cooperation of a mental health professional to visit the alleged victim in the home.</li><li>• Assist the alleged victim, or a member of their informal support, network in arranging for appropriate treatment.</li><li>• Find out about the alleged victim's method of payment (insurance, Medicare, Medicaid, etc.).</li><li>• Assist alleged victim in arranging for transportation.</li><li>• Contact the mental health professional or investigator responsible for coordination of services.</li></ul>	APS Investigator

### III. SCOPE

All employees of the Adult Protective Services program who investigate reports of abuse, neglect and/or exploitation in the field.

### IV. RELATED DOCUMENTS

None.

### V. OTHER REFERENCES

[Delaware Code for Adult Protective Services](#)



# Adult Protective Services Policy and Procedure Manual

<b>SECTION:</b> Investigation	<b>SUBJECT:</b> Death of an Alleged Victim
<b>NUMBER:</b> 707	<b>DATE REVISED:</b> 11/29/2017

## I. POLICY/POSITION STATEMENT

It is the policy of Adult Protective Services that the program may need to seek support from the police and medical examiner in the event of the death of an alleged victim.

## II. PROCEDURES

<b>ACTION</b>	<b>RESPONSIBLE PARTY</b>
If an investigator discovers an unattended death, the APS Investigator will promptly: <ul style="list-style-type: none"><li>• Notify the local police, and</li><li>• Notify the Medical Examiner's office, and</li><li>• Notify the APS Supervisor and Program Administrator.</li></ul>	APS Investigator
If there is evidence that abuse or neglect may be the cause of death, the investigator shall immediately: <ul style="list-style-type: none"><li>• Notify the local police, and</li><li>• Notify the Medical Examiner's Office, and</li><li>• Notify the APS Supervisor and Program Administrator, and document thoroughly in case notes the events or situation within one working day, and</li><li>• If the APS Supervisor determines that the facts warrant it, make a referral to the Attorney General for investigation.</li></ul>	APS Investigator
In the event of an unattended death or a case where there is evidence that abuse or neglect may be the cause of death, the investigator should not touch or do anything that would disturb the environment where the death occurred. The home should remain as it was found.	

## III. SCOPE

All employees of the Adult Protective Services program who investigate reports of abuse, neglect and/or exploitation in the field.

## IV. RELATED DOCUMENTS

None.

## V. OTHER REFERENCES

None.



# Adult Protective Services Policy and Procedure Manual

**SECTION:** Investigation

**SUBJECT:** Family Responsibility

**NUMBER:** 708

**DATE REVISED:** 11/29/2017

## I. POLICY/POSITION STATEMENT

It is the policy of Adult Protective Services that the program may need to seek assistance from the alleged victim's family during the investigation.

## II. PROCEDURES

ACTION	RESPONSIBLE PARTY
In developing a service plan, the investigator may request family assistance in a variety of areas including, but not limited to: <ul style="list-style-type: none"><li>• Assisting alleged victim with personal care.</li><li>• Providing social and emotional support for the alleged victim.</li><li>• Providing financial support for the alleged victim.</li><li>• Providing transportation for the alleged victim.</li><li>• Serving as legal surrogate for the alleged victim.</li></ul>	APS Investigator
In cases where the family is not amenable, the APS Investigator may, through the Department of Justice: <ul style="list-style-type: none"><li>• Petition the Court of Chancery to enjoin continuing interference with protective services or for whom ordered such provided services.</li><li>• Petition Family Court to prevent a family member from conduct that imperils the family relationship, order the defendant to desist from the acts complained of, or order the individual or family counseling with Court staff or with any appropriate counseling agency, or enter such other order as may be required," to support the spouse, to support a poor person, or for a protection from abuse order.</li></ul>	APS Investigator

## III. SCOPE

All employees of the Adult Protective Services program who investigate reports of abuse, neglect and/or exploitation in the field.

## IV. RELATED DOCUMENTS

None.

## V. OTHER REFERENCES

10 Del. C. §1031, 1045

13 Del. C. §502-03





# Adult Protective Services Policy and Procedure Manual

**SECTION:** Coordination with Other Agencies

**SUBJECT:** Memorandum of Understanding

**NUMBER:** 900

**DATE REVISED:** 11/29/2017

## I. POLICY/POSITION STATEMENT

It is the policy of Adult Protective Services that services within State of Delaware should be viewed as service and consultation resources.

## II. PROCEDURES

ACTION	RESPONSIBLE PARTY
Although it's neither a mandate nor appropriate for other Divisions or Departments to investigate APS reports, other professionals may be able to assist in assessment or provision of ongoing services. In these cases a Memorandum of Understanding (MOU) will be drafted to outline such services.	Program Administrator
When an MOU is appropriate, the Program Administrator will contact the Chief Administrator of Planning or designee to start the drafting process.	Program Administrator
Once drafted, the MOU will go through the appropriate procedures, as outlined in DSAAPD policy.	Program Administrator
Any changes to an MOU must be approved by the Chief Administrator of Planning.	Program Administrator

## III. SCOPE

The Program Administrator has direct responsibility for ensuring that all program employees adhere to an approved Memorandum of Understanding.

## IV. RELATED DOCUMENTS

None.

## V. OTHER REFERENCES

None.



## Adult Protective Services Policy and Procedure Manual

ACTION	RESPONSIBLE PARTY
In making referrals, the investigator will pay particular attention to making referrals to the most appropriate resources to meet the alleged victim's needs.	APS Investigator

### III. SCOPE

All employees of the Adult Protective Services program who investigate reports of abuse, neglect and/or exploitation in the field.

### IV. RELATED DOCUMENTS

None.

### V. OTHER REFERENCES

None.



# Adult Protective Services Policy and Procedure Manual

<b>SECTION:</b> Coordination with Other Agencies	<b>SUBJECT:</b> After-Hours
<b>NUMBER:</b> 903	<b>DATE REVISED:</b> 11/29/2017

## I. POLICY/POSITION STATEMENT

It is the policy of Adult Protective Services that the program will not investigate reports of abuse, neglect or exploitation during after-hours, but will provide emergency services until 8:30 pm Monday through Friday.

## II. PROCEDURES

<b>ACTION</b>	<b>RESPONSIBLE PARTY</b>
After-hours are considered weekdays 4:30 pm to 8:00 am, weekends, and holidays.	Program Administrator
Referrals will be made to the ADRC during after-hours and Calls Plus, Inc. will receive all APS report calls. Calls Plus, Inc. will enter all necessary information about the report into the APS Web Intake form and submit the form to APS to review at the beginning of the next business day.	Program Administrator
The Program Administrator may be called in emergency situations to support the alleged victim immediately.	Program Administrator
In emergency situations, two Emergency Care Coordinators will be able to provide access to emergency support services to alleged victims. Support services include developing a service plan and providing: <ul style="list-style-type: none"><li>• Food</li><li>• Emergency medications</li><li>• Personal Supervision</li><li>• Clothing</li><li>• Transportation</li><li>• Other services approved by APS Supervisor</li></ul>	Emergency Care Coordinators
The Emergency Care Coordinators will receive referrals from authorized agencies and sources including police departments, hospital emergency rooms, and Calls Plus, Inc.	Emergency Care Coordinators
Authorized agencies and sources will be given information about what types of emergency services are available, what kinds of alleged victim problems they might be used for, and the conditions or criteria which apply to the use of these services. It should be noted that emergency services are extremely limited in their scope and availability.	Emergency Care Coordinators
The Emergency Care Coordinators will not investigate the report, but will continue to support the alleged victim once an investigator becomes involved.	Emergency Care Coordinators
The Emergency Care Coordinators must abide by section 801 as it relates to emergency funds.	Emergency Care Coordinators

## **APPENDIX E**

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### **MEMORANDUMS OF UNDERSTANDING**

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WORKING AGREEMENT

By and Between

ADULT PROTECTIVE SERVICES  
of the  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES

and

THE ATTORNEY GENERAL'S OFFICE

WHEREAS, Adult Protective Services is conferred such powers, duties and responsibilities as set forth in Title 31, Chapter 39 of the Delaware Code, and

WHEREAS, through enactment of Title 31, Chapter 39 of the Delaware Code, the General Assembly, recognizing that many adult citizens of Delaware are subject to psychological or physical injury or exploitation because of physical or mental infirmity, disease or other causes which render them incapable of providing for their basic living needs, has established a system of services for impaired adults designed to protect their health, safety and welfare, and

WHEREAS, the Attorney General's Office recognizing that elder abuse is a crime affecting increased segments of the elderly community, believes it is necessary to have an advocate/investigator within its office to help facilitate the prevention, reporting, investigation and prosecution of such cases, and

WHEREAS, the Attorney General's Office has received a VOCA grant through the Criminal Justice Council entitled "Elder Abuse and Exploitation Project" (hereinafter "the Project"), and

WHEREAS, the Project calls for a working agreement between Adult Protective Services and the Attorney General's Office for the purpose of delineating each agency's responsibilities and assuring mutual cooperation for the benefit of Delaware elderly population,

NOW, THEREFORE, IT IS HEREBY MUTUALLY AGREED THAT:

A. The Adult Protective Services shall continue to perform all of its responsibilities and services as set forth in 11 Del.C. Section 3904, including the preliminary investigation and evaluation of reports of adults needing protective services, and shall maintain with the Project's Advocate/Investigator a spirit of cooperation and mutual commitment to enhance the security and well-being of the elderly in this state.

B. As part of its cooperative effort, Adult Protective Services, along with other social service agencies, shall refer those cases to the Project's Advocate/Investigator which indicate that a victim of elderly abuse is in or may be in need of prosecution-based assistance services.

C. Upon receipt of any such referral, the Advocate/Investigator will record information pertaining to the referral, determine the appropriateness of the referral and initiate contact with the victim. The Advocate/Investigator will address the victim's concerns and questions and determine needs and services such as:

1. Contact with the victim to ascertain the physical, psychological and financial impact of crime, obtain background information, verify address, explain case status, determine if there have been new problems or violations of bail conditions, etc. Develop intervention and assistance plans relating to victim needs;
2. Interact with the victim to determine needs for counseling/therapy and make referrals, the victims' concerns for reluctance regarding prosecution, and to assist the victim in understanding the prosecution process;
3. Provide supportive assistance and counseling to the victim throughout the process;
4. Provide victims with court orientation; preparation for court events including case review, hearings, trial and sentencing, and provide accompaniment;
5. Assist in coordinating cases in which charges are pending in other courts (i.e., multiple incidents, out-of-state jurisdiction) to reduce victim anxiety and confusion;
6. Collaborate with Adult Protective Services and other various professionals that may be involved in a case (i.e., police, prosecutor, DCPS, therapists, doctors, private attorneys, probation staff, etc.) regarding intervention plans, treatments options and safety strategies;

7. Determine if the victim is receiving services from prosecution-based victim services. If so, the project social worker would serve as liaison on the case, monitor case status, and provide direct services to the victim when appropriate. (This would ensure that services are not duplicated, that the advocate active with the case and the victim are informed of events, make services available to victims who are not already active with victim assistance staff);
8. Assist victims in completing victim loss statements and in filing for Violent Crimes Compensation;
9. Assist in evaluating cases, charging and disposition decisions and sentencing recommendations to minimize risk to the victim;
10. Establish procedures for victims requesting to withdraw charges (i.e. collect complete background on relationship, in-person interview with victim, consultation with victim regarding dispositional alternatives, case assessment (criteria including future/risk escalation recommendations to the prosecutor, etc.);
11. Collect background information on cases (i.e. criminal history, current status of defendant, substance abuse information, etc.);
12. Contact the assigned police officer to obtain police reports and other relevant information;
13. Inform the prosecutor of the background, evidence, victim concerns, and dynamics specific to individual cases;
14. Schedule and conduct intakes on serious or complex cases;
15. Prepare a quarterly report including the number of victims serviced by the project, volume of cases by defendant, referrals provided to victims, victim contacts and disposition information;
16. Develop and maintain a system for collecting statistics on these cases;
17. Establish procedures for reporting referrals;
18. Establish a prevention program that will be presented to the elderly at various facilities throughout the state.



D. Essentially, by this Agreement, the parties acknowledge that any cases or investigations referred to the Project's Advocate/Investigator by Adult Protective Services are to be monitored by the Advocate/Investigator of the Project with the view towards increasing effectiveness of prosecution of elder abuse offenders whenever possible.

E. Adult Protective Services and the Attorney General's Office have had, and by this Agreement shall continue to have, the common and noble goal of increasing the efficiency in reporting, investigating and prosecuting cases of elder abuse and are hopeful that Delaware's elderly, vulnerable population is benefitted hereby.

Dated: 4/7 1997

Adult Protective Services

by Eleanor L. Cain  
Eleanor L. Cain, Director  
Division of Aging

The Attorney General  
of the State of Delaware

by Keith Brady  
Keith Brady  
Chief Deputy Attorney General



## **DELAWARE HEALTH & SOCIAL SERVICES**

### **Division of Developmental Disabilities Services**

#### **And**

### **Adult Protective Services**

### **Memorandum of Understanding**

#### **I. SCOPE AND PURPOSE**

This memorandum represents an understanding between the Division of Developmental Disabilities Services (DDDS) Community Services Program and Adult Protective Services (APS), regarding individuals who may have developmental disabilities and who may require protective services. The purpose of this agreement is to cooperatively provide appropriate services in a timely and efficient manner. Services may be provided as a collaborative effort, or in a manner that establishes one agency as the primary or "lead" agency, with the other providing support. Under this agreement, the Divisions agree to provide referral, joint planning, appropriate assessment, and those support services necessary to those who meet the criteria for joint care.

#### **II. ACTION PROCESS**

When a person who is in need of APS Protective services and is also believed to be an individual who has developmental disabilities, the following actions will occur:

1. The APS Supervisor from the appropriate county will communicate with the corresponding Regional Program Director (RPD)/Designee from the appropriate region to determine whether or not the individual is receiving DDDS services.
2. DDDS will locate an emergency placement. It should be noted that despite all efforts, there may be an occasion when an appropriate placement cannot be found, especially if there aren't any providers willing to accept the individual in their home.
3. APS will provide transportation of the individual from their location to the emergency placement site. A DDDS representative must meet the APS worker at the placement site.

### **III. Defining Roles & Responsibilities Following the Emergency Placement**

If a person identified by Adult Protective Services is not listed in the DDDS Registry at the time APS Protective services are required, then APS will be responsible for all follow-up services, including screening, initiating application process, transportation, family visitations, appointments, investigations, guardianship application, and Social Security change status, and any other support services necessary.

If a person identified by Adult Protective Services is listed in the DDDS Registry at the time APS Protective services are required, then the DDDS contracted Family Support Specialist will be responsible for all follow-up services, including screenings, transportation, family visitations, appointments, assistance with investigations (as needed) guardianship application, Social Security change status and any other support services necessary.

### **IV. CONFIDENTIALITY**

The employees of both divisions are to adhere to *DHSS Policy Memorandum Number 5* regarding *Client Confidentiality* and Adult Protective Services Title 31:3912 Confidentiality of records.

### **V. DISPUTE RESOLUTION**

Case Managers from both agencies shall work cooperatively to resolve all disputes by pro-actively communicating with one another. If for some reason they are unable to reach an agreement regarding a case, they should refer the case to each of the respective regional supervisors (RPD/Designee and the APS Supervisor.) If the RPD/Designee and the APS Supervisor are not able to reach an agreement regarding a case, then the case will be referred to the Director of Community Services/designee and the APS Social Services Administrator. If the Director of Community Services/designee and the APS Social Services Administrator are not able to reach an agreement regarding the case, the case will be referred to the Director of the Division of Developmental Disabilities and the DHSS Director of Constituent Relations.

### **VI. MEETINGS**

Quarterly meetings between DDDS and APS will be held to discuss on-going cases and to identify and resolve any issues occurring between the agencies.

### **VII. TRAINING**

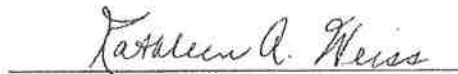
Each Division will provide the other with current information about training germane to their respective areas of specialization. In addition, each Division will ensure equal access to said training for the staff of the other Division.

This agreement is proposed and executed with the greatest spirit of cooperation and desire for person-centered services. Both divisions recognize that certain steps of the action process may be altered based on specific individual needs, as well as the resources available to each division at any given time. Every effort will be made to expedite the action process.

This memorandum shall be reviewed annually.

In witness whereof and giving approval for this agreement to be in effect as of the 15th Day May 2012 the parties hereto have set their hands.

  
\_\_\_\_\_  
Jane J. Gallivan, Director  
Division of Developmental  
Disabilities Services

  
\_\_\_\_\_  
Kathleen Weiss, Director  
Constituent Relations  
Office of the Secretary

6/21/12  
\_\_\_\_\_  
Date

6/27/12  
\_\_\_\_\_  
Date

### **DDDS Contact Information**

<b>Title</b>	<b>Contact Information</b>
New Castle County Regional Program Director	Office: (302) 836-2100
Kent County Regional Program Director	Office: (302) 744-1100
Sussex County Regional Program Director	Office: (302) 933-3100
Assistant Director of Community Services	Office: (302) 933-3140
Director of Community Services	Office: (302) 836-2100
Stockley Center	(302) 933-3000

### **Adult Protective Services Contact Information**

New Castle APS Supervisor	Office: (302) 453-3824
Kent/Sussex APS Supervisor	Office: (302) 424-7385
APS Administrator	Office: (302) 255-9242

## ATTACHMENT

### **ROLES & RESPONSIBILITIES: ADULT PROTECTIVE SERVICES**

#### **Screening:**

- APS will contact DDDS on any referral where ID/DD is indicated or suspected
- APS (preferably in conjunction with a designee from DDDS) will screen the individual utilizing the attached assessment. The APS Supervisor/designee will contact the Regional Program Director/designee to determine if client is in their registry.

#### **Transportation:**

- If an emergency placement is necessary and a placement has been found, APS will provide transportation. If the individual requires specialized transportation, then APS will request assistance from DDDS.

#### **Application Process:**

- APS will complete the "Checklist for APS Emergency Placement Form" and inform family/and or representative of their need to obtain and complete a formal application for DDDS services. When necessary, APS will make appropriate referrals to other agencies that can assist in completing the application and obtaining needed documents, (i.e. birth certificates, social security information, past medical history, etc.)

#### **Placement:**

- APS will attempt to obtain the individuals personal belongings, including medications. If APS is unable to do so, placement will not be delayed. A DDDS representative must meet the APS worker at the placement site. When necessary, APS will seek approval to use its emergency funds for client's immediate needs. Additional personal items will be obtained as soon as possible.
- The Regional Program Director/designee and the APS Supervisor will ensure the DDDS Family Support Specialist and the APS Worker jointly facilitate the transition of the individual and the personal belongings to the emergency placement.

#### **Investigation:**

- APS will be responsible for informing the family/caretaker of the need to have the individual removed from the home until the investigation is complete and for the actual removal of the individual from the home.
- There may be occasions for a joint visit to the home. APS will request such as needed by a DDDS worker.
- APS will communicate with DDDS as much information as possible regarding the substantiation of the investigation allegations.

#### **Guardianship:**

- If the individual is not receiving services from DDDS, APS will take the lead in completing the guardianship paperwork/process if necessary, during the time that the APS investigation is active.

## **ROLES & RESPONSIBILITIES: DDDS SERVICES**

### **Screening:**

- If an individual has become involved with APS and the results of the screening suggest the probable presence of a qualifying developmental disability and it has been determined that the individual needs to be removed from the home, DDDS will attempt to arrange an emergency placement. Once deemed eligible for DDDS services and formal application approved, DDDS will become lead agency.
- If an individual who is already open in DDDS services becomes involved with APS and is in need of an emergency placement, DDDS will attempt to arrange placement.

### **Transportation:**

- If requested/needed by APS, DDDS will provide specialized transportation during the emergency placement (i.e. wheelchair, power wheelchair, physically disabled, or unable to self-transfer.)

### **Placement:**

- DDDS will attempt to locate an emergency placement for those individuals with developmental disabilities who are in need of protective services.
- A DDDS representative will meet the APS worker at the emergency placement location or another agreed upon location site to ease the removal of the individual. This assistance can also be needed at the home if necessary.
- The DDDS worker and the APS worker will communicate regularly during the first 30 days of placement on issues regarding the status of the investigation and continued placement needs.
- The DDDS Regional Program Director/designee and the APS Supervisor will ensure that the DDDS Family Support Specialist and the APS Worker jointly facilitate the transition of the individual and the personal belongings to the emergency placement.

### **Investigation:**

- At times, DDDS may be asked to participate in the initial interview to help establish rapport while APS is conducting the investigation. For example, APS may request a DDDS worker to accompany them to an individual's Day Program.
- DDDS will provide APS with any medical history, information and/or documents requested and needed by APS for the expeditious resolution of the APS investigation. DDDS will likely have the responsibility of working with the individual or family members for years to come. It is important to develop a rapport with the individual and family and not be viewed as the agency that removed the individual from the family situation.

### **Guardianship:**

- If the individual is already eligible for services from DDDS, then DDDS will take the lead in completing the guardianship paperwork/process as necessary.

## DDDS Quick Screen Tool

## Identifying Individuals with a Possible Qualifying Developmental Disability

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

Age: \_\_\_\_\_ Informant/s: \_\_\_\_\_

Screening completed by: \_\_\_\_\_

1. Is there documentation that the individual's deficits or limitations began prior to age 22 (for example: enrolled in special school or program, previous diagnosis of some type of mental retardation, autism, documentation of delays in development, or an IQ below 70)?
2. Does the individual have a high school diploma or a certificate of attendance? If neither, it is clear that the individual did not attend or regularly attend and complete school.
3. Is the individual performing substantially below the level expected for his/her age in two or more of the following adaptive skills areas (see definitions noted on the back of this form)? If so, circle those applicable.
  - a. Communication
  - b. Self-Care
  - c. Home Living
  - d. Social
  - e. Community Use
  - f. Self-Direction
  - g. Health and Safety
  - h. Functional Academics
  - i. Leisure
  - j. Work
4. Is it clear that the individual did not function at a higher or more independent level at a previous time in his/her life?



## DDDS Quick Screen Tool

### Adaptive Skills Areas

- a. Communication: Ability to understand and express information through symbolic behavior (spoken word, written word, sign language, manually coded English) or non-symbolic behaviors (e.g.: facial expressions, body, body movement, touch, gesture).
- b. Self-care: skills involved in toileting, eating, dressing, hygiene, and grooming.
- c. Home living: home-related skills such as cooking, clothing care, housekeeping, food preparation, planning/budgeting for shopping, and home safety.
- d. Social skills related to social interactions with others such as initiating, interacting, and terminating interactions, making choices, coping with demands, confirming conduct to social norms, and displaying appropriate socio-sexual-behavior.
- e. Community use: skills related to the appropriate use of community resources, travel in the community, shopping in stores, purchasing/obtaining services from community businesses, visiting places/events.
- f. Self-Direction: skills related to making choices, learning and following a schedule, engaging in/initiating activities of personal interest that are appropriate to the setting and conditions.
- g. Health and Safety skills: related to the maintenance of owns own health in terms of eating, identification of illness, treatment and prevention, basic first aid, sexuality, physical fitness, and interacting with strangers.
- h. Functional Academics: cognitive abilities and skills related to school that also have direct application in one's life (e.g.: writing, reading, basic science). Of importance is not the grade-level, but that the skills are functional in terms of independent living.
- i. Leisure: the development of a variety of leisure and recreational interests that reflect personal choice and preferences. Skills would be choosing and self-initiating interests, using home and community activities with others and/or alone and determining amount and type of involvement.
- j. Work: skills related to holding a part or full-time job in the community in terms of specific job skills and appropriate social behavior.

Please assist the individual with bringing the following items, if possible:

<b>Personal items of the individual:</b>
Pajamas/robe
Clothes (at least a 7 day supply)
Underwear
Shoes (at least 2 pr.)
Coat/sweater/jacket
Medications (at least a 3- 7 day supply) or RX's
Assistive devices (glasses, hearing aid, etc.)
<b>Hygiene items</b>
Toothbrush/toothpaste
Deodorant
Perfume or cologne
Razor/Aftershave
Shampoo/conditioner
Hair brush/comb
Special soap, if required
Feminine hygiene products, if needed
Diapers/Adult Depends, etc.
<b>Personal items</b>
Radio/walkman
CD's
Movies/DVD's
Magazines
Spending Money
Insurance Card
Photo ID card, if available
DART tickets, if needed
Other items needed by the individual

\_\_\_\_\_  
APS Worker Signature / Date



## DELAWARE HEALTH AND SOCIAL SERVICES

*Division of Services for Aging and Adults with Physical Disabilities*

**MOU #: M35-1400-2018-82**

**CATS Sys Doc #: 023478-0000-0000**

Memorandum of Understanding (MOU)  
Between  
STATE OF DELAWARE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
DIVISION OF SERVICES FOR AGING AND ADULTS WITH PHYSICAL DISABILITIES (DSAAPD)  
and  
STATE OF DELAWARE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
DIVISION OF LONG TERM CARE RESIDENTS PROTECTION (DLTCRP)

### **Purpose of the Memorandum of Understanding (MOU)**

WHEREAS, the Delaware Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) and the Division of Long Term Care Residents Protection (DLTCRP) serve the aging and persons with disabilities population in Delaware; and

WHEREAS, the partners listed below have agreed to enter into a collaborative agreement in order to provide appropriate services in a timely and efficient manner; and

WHEREAS, the partners listed below have clearly identified and come to an agreement on the roles and responsibilities of both parties; and

WHEREAS, the partners herein desire to enter into a Memorandum of Understanding setting forth the services to be provided by the collaborative; and

WHEREAS, the application prepared and approved by the collaborative through its partners is to be submitted to the Delaware Department of Health and Social Services on or before January 1, 2018.

### **Description of Partner Agencies**

- a) The Delaware Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) - The Division of Services for Aging and Adults with Physical Disabilities advocates for, provides access to, and coordinates long-term services and supports for older adults and people with disabilities in the most appropriate setting. DSAAPD is a division of the Delaware Department of Health and Social Services, established through 29 Del C. §7920.

The Adult Protective Services Program (APS) is a unit within DSAAPD. APS responds to cases of suspected abuse, neglect, or exploitation of impaired adults. Specifically, the program serves persons who are aged 18 or over, who have a physical or mental impairment, and who are not living in a long term care facility (for example, a nursing home).

- b) The Division of Long Term Care Residents Protection (DLTCRP) - The Division of Long Term Care Residents Protection (DLTCRP) protects residents in Delaware long term care facilities through promotion of quality of care, quality of life, safety and security, and enforcement of compliance with State and Federal laws and regulations. DLTCRP is a division of the Delaware Department of Health and Social Services, established through 29 Del C. §7970-72.

The purpose of the Investigative Section of DLTCRP is to ensure that individuals receiving services in long term care facilities are safe, secure, and free from abuse, neglect, mistreatment, and financial exploitation. The Investigative Section is responsible for:

- Operating the Complaint and Incident Referral Center (IRC), which receives complaints/incidents regarding long term care facilities and assigns them for follow-up
- Investigating complaints of alleged abuse, neglect, mistreatment, and financial exploitation
- Ensuring compliance with the criminal background check and mandatory drug testing laws and
- Maintaining and administering the Adult Abuse Registry.

#### **Need for the MOU**

- a) In 2017, DLTCRP designated two full-time positions within the Investigation Section to respond to financial exploitations cases within the community.
- b) Since APS currently investigates financial exploitation cases and has a financial exploitation victim advocate employed, there is a need for cooperation between the two agencies.
- c) This MOU seeks to clarify roles within DSAAPD and DLTCRP in order to investigate financial exploitation reports fully.

#### **Responsibilities**

*(Subject to Change upon Consent of All Parties Involved)*

NOW, THEREFORE, it is hereby agreed by and between the partners as follows, as it relates to financial exploitation investigations:

- a) APS will continue to investigate financial exploitation cases. However, if the APS investigator cannot acquire information necessary to continue their investigation in order to determine if the allegations are substantiated, a referral will be made to DLTCRP.
- b) More complex financial exploitation reports will be referred directly to DLTCRP.
- c) APS will continue to investigate any reports of abuse and/or neglect and provide appropriate services to the alleged victim, even if a referral to DLTCRP for financial exploitation has been made for the same alleged victim.
- d) DLTCRP will accept referrals from anyone in the general community using their online web reporting form or through their Incident Referral Center email. Referrals from APS staff may be made using the LTCReporting website.
- e) When making a referral to DLTCRP, APS will provide all available information that is pertinent to the investigation.
- f) Both APS and DLTCRP will investigate cases statewide. DLTCRP will have an investigator located in Wilmington and Milford, respectively. APS will have investigators located in Newark and Milford.
- g) Once DLTCRP closes an investigation that was referred from APS, the DLTCRP investigator will share the results of the investigation with the APS investigator that referred the case.
- h) If the alleged victim is in need of services once DLTCRP closes an investigation, the DLTCRP investigator will make a referral to the Aging and Disability Resource Center for services by calling 1-800-223-9074.

#### **Commitment to Partnership**

- a) The partners agree to collaborate and provide financial exploitation investigation and support services to alleged victims of the financial exploitation pursuant to the program details within this agreement.
- b) We, the undersigned have read and agree with this MOU. Further, we have reviewed the proposed program and approve it.

MOU #: M35-1400-2018-82  
CATS Sys Doc #: 023478-0000-0000

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date and year first above written.

For the State of Delaware:  
Department of Health & Social Services (DHSS)

Mandy M. Brown  
Witness

Kara Odom Walker  
Kara Odom Walker, MD, MPH, MSHS  
Cabinet Secretary, DHSS

12/22/17  
Date

For the State of Delaware:  
Division of Services for Aging & Adults with Physical Disabilities  
(DSAAPD)

[Signature]  
Witness

Dava Newnam  
Dava Newnam  
Director, DSAAPD

12/18/17  
Date

For the State of Delaware:  
Division of Long Term Care Residents Protection (DLTCRP)

Richard B. McKee  
Witness

Mary Peterson  
Mary Peterson  
Director, DLTCRP

12/13/17  
Date

# DSAAPD MEMORANDUM OF UNDERSTANDING (MOU) ROUTING SHEET

MOU INITIATOR	Cindy Mercer ✓
MOU SERVICE PROVIDED	Clarify the APS and financial exploitation roles
MOU PARTNER NAME	DLTCRP ✓
MOU SERVICE PERIOD	January 1, 2018 - No End Date ✓
MOU NUMBER	M35-1400-2018-82 ✓

Initial/Date	Task
CM 11/15	1. MOU created by MOU Initiator & MOU Checklist (CF-014) completed for new MOU.
CM 11/15	2. MOU Initiator contacts DSAAPD Senior Fiscal Officer (SFO) for MOU number. request should include: <b>VENDOR / SERVICE / FUNDING AMOUNT / CONTRACT DATES</b> Fiscal
F 11/16	3. MOU data entered and Level I approved in CATS by MOU Initiator. Record CATS Sys Doc #: <u>023478-0200-0200</u> ✓ * System Document # is found on the CONTRACT INFO tab of CATS entry*
N/A	4. Contract/amendment submitted to Contract Initiator's immediate supervisor for review
F 12/13	5. MOU sent to MOU Partner for review and sign signature pages. **Attach "Sign Here" stickers to the signature page on each copy of the MOU
F 12/13	6. MOU Partner signs the MOU and returns signature pages MOU Initiator
F 12/13	7. MOU Initiator creates adequate copies of the MOU. MUST add a signature & date line for the Dept. Secretary **Attach "Sign Here" stickers to the signature page on each copy of the MOU
N/A	8. MOU signed copies submitted to Frank Jones - DSAAPD for 2nd Level CATS entry
F 12/13	9. 2nd Level CATS entry completed by DSAAPD
F 12/13	10. MOU submitted to DSAAPD CFO for review
W 12/13	11. DSAAPD CFO reviewed MOU and then submits MOU to DSAAPD Director.
W 12/13	12. MOU 3rd Level CATS review & approval is completed by DSAAPD Director ** The Certification Page, Contract Review Sheet, & FORM CF-048 must be printed from CATS and signed by the Director or designee. (CF-048 must have Director initial - see Dept. Approval Section below)
F 12/19	13. Once signed the MOU is submitted to Frank Jones - DSAAPD
F 12/19	14. MOU received by Frank Jones - DSAAPD
F 12/19	15. DSAAPD delivers the signed MOU, Procurement Checklist (CF-009), Signature Request Form (CF-048), signed CATS Certification sheet, Contract Review Sheet (from CATS) the Contract Checklist (CF-009) and the SAM.gov verification printout to DHSS Procurement for Department Secretary approval and signature. **Do not send the MOU folder or this MOU routing sheet with the MOU to Procurement
F 12/26	16. Secretary signed MOU returned DSAAPD from Procurement
F 12/26	17. DSAAPD scans a copy of the MOU for DSAAPD MOU master files
F 12/24	18. DSAAPD delivers signed copy of MOU to MOU Initiator.
	19. MOU Initiator provides a copy of signed MOU to MOU partner.

## MEMORANDUM OF UNDERSTANDING (MOU) CHECKLIST

<b>MOU INITIATOR</b>	Cindy Mercer
<b>MOU SERVICE PROVIDED</b>	Clarification of APS roles
<b>MOU PARTNER NAME</b> Use formal business name	DLTCRP
<b>MOU SERVICE PERIOD</b> Insert the beginning and end date of the MOU.	January 1, 2018 – No End Date
<b>MOU NUMBER</b> Insert MOU number provided by DSAAPD Fiscal	M35-1400-2018-82

Initial	Required Documentation
✓	<b>MOU Agreement / Work Plan</b>
N/A	<b>Business Associate Agreement – (CF-011)</b> Required if the contractor has access to the participant's private health information
N/A	<b>Business License</b>
N/A	<b>Professional License</b> (if applicable)
N/A	<b>Verification of Provider's good standing</b> – include website printout of finding using <a href="http://sam.gov">sam.gov</a> (Please include two (2) copies of the form)  <b>Providers DUNS #</b> - _____ <a href="http://www.dnb.com/get-a-duns-number.html">http://www.dnb.com/get-a-duns-number.html</a>

**APPENDIX F**

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**DSAAPD POLICY MEMORANDUM NUMBER 12**



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**DIVISION OF SERVICES FOR AGING & ADULTS WITH PHYSICAL DISABILITIES**

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**Policy Memorandum Number 12**

**Subject: Standards for Service Action Notification and Appeals**

**Page 1 of 3**

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Approved by: Dava Newnam  
Dava Newnam  
Director

Date Approved: February 9, 2018

Revision Date: NA

Supersedes: NA

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**I. POLICY/POSITION STATEMENT**

The purpose of this policy is to outline appropriate standards for service action notification and appeals of those service actions.

**II. SCOPE**

This policy applies to all DSAAPD employees who work in the field, including Adult Protective Services (APS), Care Transitions, Community Services Program (CSP) and Community Nursing.

**III. PROCEDURES/RESPONSIBILITIES**

1. CSP Participants have the right to be fully informed in advance about changes in each of the in-home service(s) they receive. Also, they have a right to participate in the planning and changing of their in-home service(s). Further, they have the

right to voice a grievance or appeal decisions made about in-home services they receive and appeal or grieve those decisions without discrimination or reprisal.

2. APS alleged victims (hereafter referred to as *participants*) have the right to be fully informed about investigation(s) pertaining to them and service plan decisions regarding them. Further, they have a right to voice a grievance or appeal decisions made about the investigation and service plan and appeal or grieve those decisions without discrimination or reprisal.
3. Participants may appeal decisions regarding services provided by CSP. APS alleged victims may appeal investigation and service plan decisions of APS. Participant's guardians and those who have power of attorney may also participate in the appeals process.
4. Participants are to be provided a minimum of ten (10) business days' written notice of denial, reduction or termination of services or an investigation or service plan decision. This is sent through the Notification of Service Action Form by the DSAAPD Social Worker/Case Manager, nurse or investigator or designee. There are separate forms for CSP and APS.
5. The Service Action Appeal Process and Service Action Appeal Form are to be included with the Notification of Service Action Form.
6. Actions that are not covered by the notification and appeal processes include: participants' placement on service waitlists; changes in service providers due to contract terminations; and service-wide reductions to participants due to funding limitations. Such actions do not result in formal notifications and are not subject to appeal. In addition, any grievance for APS involuntary investigation or service plan decisions must go through the Court of Chancery.
7. A participant has up to thirty (30) calendar days from the date of the Notification of Service Action Form to appeal. An appeal must be made in writing, using the Service Action Appeal Form. Accommodations will be provided for the participant if requested in the written appeal. Appeals can be made by caregivers, guardians or representatives of the participant on behalf of the participant. A Release of Information form or proof of guardianship or power of attorney must be received by DSAAPD before DSAAPD staff may speak with anyone other than the participant.
8. Within ten (10) business days of the receipt of the participant's appeal, the DSAAPD Social Services Chief Administrator of Operations or designee will conduct a review of the decision that generated the appeal. Once review has

been conducted, the DSAAPD Social Services Chief Administrator of Operations will send the participant a Notification of Service Action Appeal Review.

9. The DSAAPD Social Services Chief Administrator of Operations or designee will send a Service Action Final Review Request Form with the Notification of Service Action Appeal Review. The Service Final Review Request Form will provide instruction to the participant about how to request a final review if the participant disagrees with the DSAAPD Social Services Chief Administrator of Operations review decision.
10. A participant has five (5) business days from receipt of the Notification of Service Action Appeal Review to request a final review. This request may be made by phone or in writing using the Service Action Final Review Request Form.
11. Final review requests are to be sent to the DSAAPD Deputy Director or designee. The Deputy Director will review the appeal, speak to the participant, if appropriate, make a final decision, and notify the participant in writing using the Notification of Service Action Final Review. All appeals will end at this level and no further action will be taken following the decision of the Deputy Director.
12. When an action has been appealed, services that are already in place will continue until the appeal has been resolved. Services that have been denied will not be provided unless a successful appeal decision is reached.

#### **IV. EFFECTIVE**

1. This policy becomes effective immediately.
2. This Division policy supersedes all other policies, directives, or rules related to this subject.



## DELAWARE HEALTH AND SOCIAL SERVICES

*Division of Services for Aging and Adults with Physical Disabilities*

### NOTIFICATION OF SERVICE ACTION

Date

Name

Address

City, State Zip

Dear Name:

I am writing to notify you about an action that has been taken regarding you're a recent involvement with an Adult Protective Services (APS) investigation through the Delaware Division of Services for Aging and Adults with Physical Disabilities (DSAAPD).

This notification is in regard to the following investigation or service plan decision(s):

The effective date of the action is:

Action taken: ☐ The investigation has been closed without additional actions.  
☐ APS, through DSAAPD, will not provide additional services to you at this time.

This action has been taken for the following reason(s):

You have the right to appeal this action. Information about how to file an appeal is attached. If you have questions about this action, or if you need help in filing an appeal, please contact me using the phone number listed below.

If you choose not to appeal this action and you need assistance in locating other services and supports that might meet your needs, please contact the Delaware Aging and Disability Resource Center (ADRC) by phone or email at 1-800-223-9074 or [DelawareADRC@state.de.us](mailto:DelawareADRC@state.de.us) or visit the ADRC on the web at [www.DelawareADRC.com](http://www.DelawareADRC.com).

Sincerely,

Staff Name, Staff Title  
1-800-223-9074



**Division of Service for Aging and Adults with Physical  
Disabilities  
Service Action Appeal Process**

The Division of Services for Adults with Physical Disabilities (DSAAPD) provides notifications to individuals when an Adult Protective Services (APS) investigation is closed and/or no further services through APS will be provided to the alleged victim.

If you have received a notification that an action has been taken in the formulation or execution of an investigation or service plan, you have the right to appeal that action.

To file an appeal, you must write to DSAAPD within thirty (30) days of the receipt of the action notification. DSAAPD has provided you with an Appeals Form to fill out and send in order to file your appeal.

You may ask for help from DSAAPD in filling out the form or, if needed, request that the appeal be submitted in a different format.

Your appeal will be reviewed by a DSAAPD senior staff member who will support or reverse the action. DSAAPD will notify you of the decision within ten (10) business days. If you do not agree with the decision, you will have the opportunity to ask for a final review by the DSAAPD Deputy Director. The decision of the Deputy Director will be final.

When an action has been appealed, services that are already in place will continue until the appeal has been resolved. Services that have been denied will not be provided unless a successful appeal decision is reached.

Appeals should be sent to the following address:

DSAAPD  
Attention: Service Appeals  
Main Admin Building Annex  
1901 N. DuPont Highway  
New Castle, DE 19720



**Division of Service for Aging and Adults with Physical  
Disabilities  
Service Action Appeal Form**

Name of Alleged Victim:

Birthdate of Alleged Victim:

Name of Person Completing Form (if not Alleged Victim):

Relationship (if not Alleged Victim):

Date:

Phone number of person completing form:

In the space below, please write why you disagree with the investigation or service decision(s). Click here to enter text.

Mail appeal form to:

DSAAPD  
Attention: Service Appeals  
Main Admin Building Annex  
1901 N. DuPont Highway  
New Castle, DE 19720



## DELAWARE HEALTH AND SOCIAL SERVICES

*Division of Services for Aging and Adults with Physical Disabilities*

### NOTIFICATION OF SERVICE ACTION APPEAL REVIEW

Date

Name

Address

City, State Zip

Dear Name:

I am writing to notify you that the Delaware Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) has reviewed your service action appeal.

The following decision has been made regarding your appeal:

- ☐ The investigation or service plan decision(s) has been reversed. A DSAAPD staff member will contact you soon about your investigation.
- ☐ The investigation or service plan decision(s) has been upheld. You have the right to request a final review by the DSAAPD Deputy Director. To request a review by the Deputy Director, please complete and submit the enclosed form or call me at the phone number listed below. If you choose not to request a final review and you need assistance in locating other services and supports that might meet your needs, please contact the Delaware Aging and Disability Resource Center (ADRC) by phone or email at 1-800-223-9074 or [DelawareADRC@state.de.us](mailto:DelawareADRC@state.de.us) or visit the ADRC on the web at [www.DelawareADRC.com](http://www.DelawareADRC.com).

Sincerely,

Name of DSAAPD Appeal Reviewer, Title  
1-800-223-9074





**Division of Service for Aging and Adults with Physical  
Disabilities  
Service Action Final Review Request**

**INSTRUCTIONS**

You have the right to request a service action final review if:

1. You received notification about action on the part of the Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) regarding an investigation or service place decision AND
2. You appealed that decision AND
3. You received notification that the action was upheld.

You may request a final review by phone or in writing within five (5) business days.

1. To request a final review **by phone**, call 1-800-223-9074.
2. To request a final review **in writing**:

- a. Fill in the information indicated below.
- b. Return the entire page to  
DSAAPD  
Attention: Deputy Director  
Main Admin Building Annex  
1901 N. DuPont Highway  
New Castle, DE 19720

I would like to request a final review by the DSAAPD Deputy Director of the decision to deny, reduce or terminate service(s).

Name of Alleged Victim:

Birthdate of Alleged Victim:

Name of Person Completing Form (if not Alleged Victim):

Relationship (if not Alleged Victim):

Date:

Phone number of person completing form:



## DELAWARE HEALTH AND SOCIAL SERVICES

*Division of Services for Aging and Adults with Physical Disabilities*

### NOTIFICATION OF SERVICE ACTION FINAL REVIEW

Date

Name

Address

City, State Zip

Dear Name:

I am writing to notify you that the Delaware Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) has completed its final review of your service action.

The following final decision has been made regarding your case:

- ☐ The investigation or service plan decision(s) has been reversed. A DSAAPD staff member will contact you soon about your investigation.
- ☐ The investigation or service plan decision(s) has been upheld. My review constitutes a final decision regarding that action. If you need assistance in locating other services and supports that might meet your needs, please contact the Delaware Aging and Disability Resource Center (ADRC) by phone or email at 1-800-223-9074 or [DelawareADRC@state.de.us](mailto:DelawareADRC@state.de.us) or visit the ADRC on the web at [www.DelawareADRC.com](http://www.DelawareADRC.com).

Sincerely,

Name of DSAAPD Deputy Director, Deputy Director  
1-800-223-9074

## **APPENDIX G**

### **COMMITTEE ANALYST SUPPLEMENTAL INFORMATION**

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# DELAWARE APS

Adult Protective Services

Hope

Prevention

Support

Safety

Advocate



**DELAWARE HEALTH  
AND SOCIAL SERVICES**

DIVISION OF SERVICES FOR AGING  
AND ADULTS WITH PHYSICAL DISABILITIES



# The Adult Protective Services Program

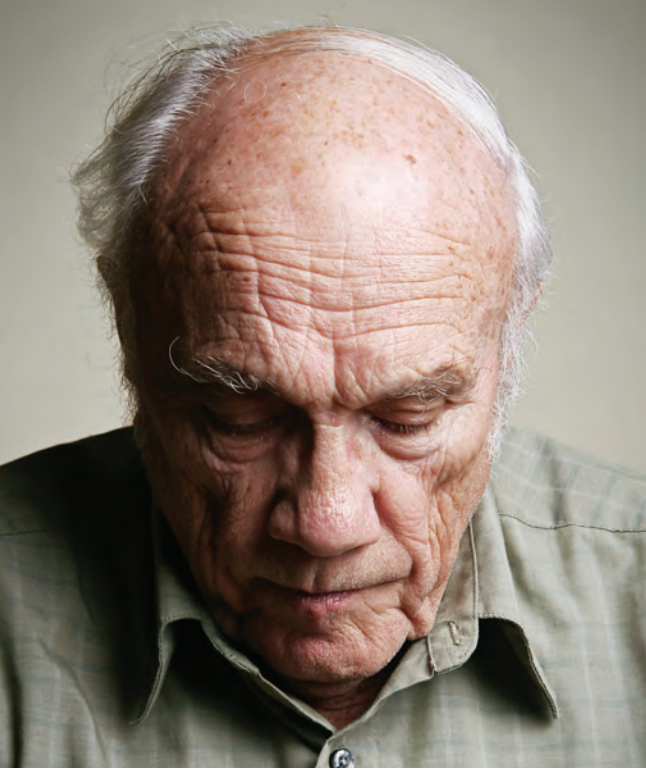
The Adult Protective Service Program was created in 1982 under Title 31 Chapter 39 of the Delaware Code. It is a mandated program within DHSS Division of Services for Aging and Adults with Physical Disabilities. Adult Protective Services provides social services intervention for physically or mentally impaired adults, age eighteen and over, who are living in the community and who are subject to abuse, neglect or exploitation.



# Adult Protective Services

- Receive reports of adult abuse (including physical abuse, emotional abuse, sexual abuse, financial abuse, neglect, and self-neglect.)
- Investigate these reports
- Assess victim's risk
- Assess victim's capacity to understand his/her risk and ability to give informed consent
- Develop a case plan
- Arrange for emergency shelter, medical care, legal assistance, and supportive services
- Service monitoring
- Evaluation

WHAT DOES ADULT PROTECTIVE SERVICES DO?



Elder abuse is one of the most underreported social problems in our society today. It is estimated that at least 5 million seniors are victimized yearly. Sadly, nearly 84% of these incidents go unreported.

Impaired adults are often not able to protect themselves against incidents of abuse, neglect, or exploitation. Many do not know where to turn for assistance. Others are incapable of seeking help because they are physically dependent, unable to leave their home, or use a telephone. Many are simply too embarrassed or frightened to ask for help. They may be reluctant to press charges against the abuser, especially if the abuser is a family member. We must bring an end to their silent suffering.



# Definition of Elder Abuse

Elder Abuse can be defined as the mistreatment of an elderly or disabled person who is dependent on someone else for basic needs.

## Elder Abuse may include:

- Pushing, slapping, pinching, rough handling
- Making derogative or threatening statements
- Misuse of financial resources
- Any non-consensual sexual contact
- Ignoring or leaving a vulnerable person alone for a long period of time
- Deprivation of food, shelter, or healthcare
- Inappropriate use of medications
- Isolation from friends, family or activities
- Name calling, excessive criticizing, or humiliation

WHAT IS ELDER ABUSE?

# Why does Elder Abuse happen?

- Discord in family created by the elder person's presence.
- History and pattern of violent interactions within the family.
- Social isolation or stresses on one or more family members who care for the older adult.
- Lack of knowledge of the aging process and caregiver skills.
- Financial burdens related to an aging parent.
- Financial dependency on older adult by caregiver.
- Emotional and psychological problems of the caregiver.



More commonly, the abuse is related to changes in living situations and relationships brought about by the older person's growing frailty and dependence on others for companionship and for meeting basic needs.

## **Domestic Violence Grown Old**

Spouses make up a large percentage of elder abusers, and a substantial proportion of these cases are domestic violence grown old.



- Unexplained or untreated injuries or bruises
- Sudden changes in mood, attitude or behavior
- Evidence of unreasonable confinement
- Unexplained or sudden depletion of financial resources
- Missing money, jewelry, checkbook, credit cards, etc.
- Hesitation of the elder to talk openly about any problems
- Inadequate and unsafe living conditions
- Wearing soiled clothing for several days
- Legal documents or contracts signed by a person who lacks capacity to understand

**WHAT ARE SOME SIGNS OF ELDER ABUSE?**

# Duty to Report

Any person having reasonable cause to believe that an adult person is infirm or incapacitated and is in need of protective services shall report such information to the Department of Health and Social Services.



Anyone participating in good faith in the making of a report shall have immunity from any liability.

Reports can be made anonymously if the individual desires. Confidentiality will be strictly observed.

# What will happen when you call?



- Your call will be confidential.
- A social worker or nurse will investigate the situation.
- Adult Protective Services will work with the victim as well as the abuser to resolve the problem.

## Report suspected Elder Abuse to Adult Protective Services

Tell:

- What happened
- Who it happened to
- Where and when it happened

**WHAT CAN YOU DO TO STOP ELDER ABUSE?**



# DHSS Division of Services for Aging and Adults with Physical Disabilities

## New Castle County

University Office Plaza  
256 Chapman Road • Suite 200  
Newark, DE 19702  
(302) 453-3820  
(800) 223-9074  
Fax (302) 453-3836

## Kent/Sussex Counties

Milford State Service Center  
18 North Walnut Street 1st Floor  
Milford, DE 19963  
(302) 424-7310  
(800) 223-9074  
Fax (302) 422-1346

## TDD Statewide

(302) 453-3837 New Castle  
(302) 422-1415 Kent/Sussex

Visit our website for  
information about our statewide services and programs  
**[dhss.delaware.gov/dsaapd](http://dhss.delaware.gov/dsaapd)**



**DELAWARE HEALTH  
AND SOCIAL SERVICES**

**DIVISION OF SERVICES FOR AGING  
AND ADULTS WITH PHYSICAL DISABILITIES**



## HOW DO YOU CONTACT ADULT PROTECTIVE SERVICES?

**Title 31. Welfare.**  
**Chapter 39. Adult Protective Services.**

**§ 3901 Legislative intent.**

The General Assembly recognizes that many adult citizens of this State are subject to psychological or physical injury or exploitation because of physical or mental disability, impairment, illness or condition or other causes which render them incapable of providing for their basic daily living needs. The General Assembly, therefore, intends through this chapter to establish a system of services for impaired adults designed to protect their health, safety and welfare. The intent is to authorize only the least possible restrictions on the exercise of personal and civil rights and such restrictions may be permitted only when consistent with proven need for services.

**§ 3902 Definitions.**

As used in this chapter:

(1) "Abuse" means:

a. Physical abuse by unnecessarily inflicting pain or injury on an adult who is impaired; or

b. A pattern of emotional abuse, which includes, but is not limited to, ridiculing or demeaning an adult who is impaired making derogatory remarks to an adult who is impaired or cursing or threatening to inflict physical or emotional harm on an adult who is impaired.

(2) "Adult who is impaired" shall mean any person 18 years of age or over who, because of physical or mental disability, is substantially impaired in the ability to provide adequately for the person's own care and custody.

(3) "Alleged victim" shall mean any adult who is impaired, incapacitated, elderly or vulnerable that may have been abused, neglected or exploited based on a report to Adult Protective Services.

(4) "Caregiver" means any adult who has assumed the permanent or temporary care, custody or responsibility for the supervision of an adult who is impaired.

(5) "Court" means the Court of Chancery of the State.

(6) "Department" means the Department of Health and Social Services of the State.

(7) "Elderly person" has the same meaning as defined in § 222 of Title 11.

(8) "Emergency" means that a person is living in conditions which present a substantial risk of serious harm and includes, but is not limited to, problems which cannot be managed by a person who is impaired, such as insufficient food supply, inadequate shelter, threatened or actual abuse or utility shut-off. Emergency does not mean psychiatric emergency as provided for in Chapter 50 of Title 16.

(9) "Emergency services" are protective services furnished to a person in an emergency.

(10) "Essential services" shall refer to those physical, medical, social, psychiatric or legal services necessary to safeguard the person, rights and resources of the person who is impaired and to maintain the person's physical and mental well-being. These services shall include, but not be limited to, adequate food and clothing, heated and sanitary shelter, medical care for physical and mental health needs, assistance in personal hygiene, protection from health and safety hazards, protection from physical or mental injury or exploitation.

(11) "Exploitation" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(12) "Financial exploitation" means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the elderly person or the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the elder person or the vulnerable adult's profit or advantage. "Financial exploitation" includes, but is not limited to:

a. The use of deception, intimidation, or undue influence by a person or entity in a position of trust and confidence with an elderly person or a vulnerable adult to obtain or use the property, income, resources, or trust funds of the elderly person or the vulnerable adult for the benefit of a person or entity other than the elderly person or the vulnerable adult;

b. The breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust, or a guardianship appointment, that results in the unauthorized appropriation, sale, or transfer of the property, income, resources, or trust funds of the elderly person or the vulnerable adult for the benefit of a person or entity other than the elderly person or the vulnerable adult; and

c. Obtaining or using an elderly person or a vulnerable adult's property, income, resources, or trust funds without lawful authority, by a person or entity who knows or clearly should know that the elderly person or the vulnerable adult lacks the capacity to consent to the release or use of his or her property, income, resources, or trust funds.

(13) "Financial institution" means any of the following:

a. A "depository institution," as defined in § 3(c) of the Federal Deposit Insurance Act (12 U.S.C. § 1813(c)).

b. A "federal credit union" or "state credit union," as defined in § 101 of the Federal Credit Union Act (12 U.S.C. § 1752), including, but not limited to, an institution-affiliated party of a credit union, as defined in § 206(r) of the Federal Credit Union Act (12 U.S.C. § 1786(r)).

c. An "institution-affiliated party," as defined in § 3(u) of the Federal Deposit Insurance Act (12 U.S.C. § 1813(u)).

d. [Repealed.]

(14) "Hazardous living condition" means a mode of life which contains a substantial risk of physical injury, or mental distress, or exploitation.

(15) "Independent living arrangement" means a mode of life pursued by a person capable of providing for the person's own care or who, while impaired, nevertheless is able to live outside an institution with assistance in obtaining essential services.

(16) "Interested person" means any adult relative or friend of a person who is impaired; an official or representative of the protective services agency or of any public or nonpublic private agency; or any corporation, board, organization or person designated by the Court to act in the interest of the person who is impaired.

(17) "Mistreatment" means the failure to provide appropriate physical or emotional care to an adult who is impaired, including the inappropriate use of medications, isolation or physical or chemical restraints on or of an adult who is impaired.

(18) "Neglect" means:

a. Lack of attention by a caregiver to physical needs of an adult who is impaired including but not limited to toileting, bathing, meals and safety;

b. Failure by a caregiver to carry out a treatment plan prescribed by a health care professional for an adult who is impaired; or

c. Intentional and permanent abandonment or desertion in any place of an adult who is impaired by a caregiver who does not make reasonable efforts to ensure that essential services, as defined in this section, will be provided for said adult who is impaired.



(19) "Person who is incapacitated" means a person for whom a guardian of person or property, or both, shall be appointed, under § 3901 of Title 12.

(20) "Physical or mental disability" shall include any physical or mental disability and shall include, but not be limited to, intellectual and developmental disabilities, brain damage, physical degeneration, deterioration, senility, disease, habitual drunkenness or addiction to drugs, and mental or physical impairment.

(21) "Protective placement" means the transfer of a person out of an independent living arrangement.

(22) "Public Guardian" means the Office of the Public Guardian.

(23) "Substantially impaired in the ability to provide adequately for the person's own care and custody" means the person who is impaired is unable to perform or obtain for himself or herself essential services.

(24) "Vulnerable adult" means an adult who meets the criteria set forth in § 1105(c) of Title 11.

### **§ 3903 Establishment of protective services system.**

(a) The Secretary of the Department shall appoint, within 6 weeks of July 1, 1982, an advisory committee to assist the Department in developing a comprehensive and coordinated system of protective services for adults who are impaired or incapacitated in the State. The committee shall consist of representatives of the Office of the Public Guardian, the Division of Social Services, the Division of Services for Aging and Adults with Physical Disabilities, the Division of Developmental Disabilities Services, the Division of Substance Abuse and Mental Health, the Division of Public Health, and Elder Law Program and the Delaware Emergency Medical Services Oversight Council. The committee shall also include 3 members from either the medical profession or the general public. The Secretary, with the advice of the committee, shall promulgate rules and regulations for the operation of the adult protective services program.

(b) The Department shall provide those services and activities as described in subsections (b) and (c) of § 3904 of this title according to the regulations promulgated by the Secretary. In doing so, it may contract with other agencies for the provision of services, or it may provide directly any or all of those services.

(c) The Department shall utilize, to the extent possible, those resources of public and private nonprofit agencies which are appropriate and available in providing protective services.

(d) The Department shall designate 5 persons as the initial staff in beginning the delivery of protective services. They shall be as follows:

(1) One person of at least the master family service specialist level as the overall supervisor of the protective services program.

(2) Three persons of at least senior family service specialist level, to function throughout the State.

(3) One family service specialist.

(e) Protective services as provided by this chapter and the regulation promulgated pursuant to it shall be provided by the Department 8 months after July 1, 1982.

(f) The Department shall make continuing provisions in each county for the shelter of those persons who are determined to be in temporary need of such protection pursuant to §§ 3905, 3906 and 3907 of this title. In providing this service, the Department may utilize existing resources such as state institutions; it may contract for bed space in private facilities; and it may utilize the resources of family care and residential homes for those alleged victims not requiring medical care.

(g) The Department may also make provisions for securing emergency food, clothing, fuel allotments and funds for those persons determined to be in need of such services, pursuant to § 3905, § 3906 or § 3907 of this title, insofar as such services are not available from other state-supported

programs. To the extent that funds are available for this purpose, the Department may draw upon the funds budgeted to provide emergency services as needed and, where possible, reimbursement shall be made to the Department for the services provided which amounts shall revert to the General Fund of the State.

**§ 3904 Nature of protective services; costs.**

(a) Protective services are services furnished to an adult who is impaired or incapacitated in an emergency situation as defined in § 3902 of this title.

(b) Protective services include, but are not limited to:

(1) Preliminary investigation and evaluation of reports of adults needing protective services, including a comprehensive social evaluation.

(2) Medical and psychiatric evaluation, if necessary.

(3) Social casework for the purpose of planning and providing services needed by the adult alleged victim.

(4) Maintenance of the person in the person's own home through provision of personal care, attendant and adult day services.

(5) Assistance in obtaining out-of-home services such as respite care, emergency housing and placement in a long-term care facility.

(6) Referral for legal assistance, information on establishing power of attorney or representative payee arrangements and on guardianship of person or property; referral to the Office of Public Guardian; referral for medical assistance.

(7) Transportation to and from service providers, if necessary.

(8) Other services consistent with this chapter.

(c) In order to provide the services listed in subsection (b) of this section, the following services will be performed by the adult protective services unit:

(1) Informing and educating the citizens of the State on the needs of protective service alleged victims and the services available to them.

(2) Accepting and processing all referrals on, or applications from, adults in need of protective services.

(3) Home visits to all alleged victims, if necessary.

(4) Counseling with alleged victims to assist them to accept needed services voluntarily.

(5) Referring alleged victims to other service-providing agencies, arranging for visits and following up to determine that needed services were delivered by those agencies.

(6) Maintaining case records and statistics.

(7) Contracting with existing public and private agencies and professionals for the provision of services not directly provided by the Department.

(8) Provision for shelter of those persons in temporary need of such protection, pursuant to § 3903(f) of this title.

(9) Provisions for emergency food, clothing, fuel allotments and funds for persons determined to be in need of such services.

(10) Arranging for the development of a system, in cooperation with public and private community agencies, to insure that emergencies requiring adult protection services will be handled on a coordinated basis.

(d)(1) The cost of services provided by the State which are voluntarily accepted by the protective services alleged victim shall be borne by the alleged victim himself or herself, insofar as the alleged victim is able to pay for them from the alleged victim's own resources, insurance programs, Medicare, Medicaid or similar programs. The Department shall determine the alleged victim's ability to pay for services from a fee schedule and income criteria which shall be established by the Secretary under the rulemaking authority provided by this chapter. For an alleged victim

aggrieved by a decision regarding fees, a caseworker's determination may be appealed to the program administrator.

(2) In the event that services are voluntarily accepted and no payment is made by an alleged victim whose resources are adequate for such payment, the State may take action in the Court to obtain reimbursement; provided, that efforts have been made to collect the account through other means.

(3) Where protective services are provided under court order, the Court may authorize reasonable payment to the Department from the resources of the person if the Department can prove to the satisfaction of the Court that payment may be made without endangering the welfare or interests of the person served.

(4) To the extent that funds are available, the cost of protective services not paid from the resources of the alleged victim shall be debited to the adult protective services budget.

#### **§ 3905 Voluntary protective services.**

(a) Any qualified person may receive adult protective services, provided the person requests or affirmatively consents to receive these services. If the person withdraws or refuses consent, the service shall not be provided unless by Court order.

(b) No person shall interfere with the provision of protective services to a person who requests or consents to receive such services or who has been ordered by Court to be provided with such services. In the event that interference occurs on a continuing basis, the Department or the service recipient may petition the Court to enjoin such interference.

#### **§ 3906 Involuntary protective services.**

If a person lacks the capacity to consent to receive protective services, these services may only be given in 1 or more of the following ways:

(1) By a police officer, on probable cause of death or immediate and irreparable physical injury, pursuant to § 3907 of this title.

(2) By the Attorney General or a Deputy Attorney General of this State, pursuant to § 3907 of this title.

(3) By an emergency order of the Court, pursuant to § 3908 of this title. The Court shall order only that intervention which it finds to be the least restrictive of the person's liberty and rights, while consistent with the person's welfare and safety. The basis for such order and finding shall be stated in the opinion by the Court.

(4) By the appointment of a guardian pursuant to § 3901 of Title 12.

(5) By a family service specialist on probable cause of death or immediate and irreparable physical injury pursuant to § 3907 of this title.

#### **§ 3907 Probable cause of death or immediate and irreparable physical injury.**

(a) When probable cause exists to make a peace officer believe that a person will suffer immediate and irreparable physical injury or death if not immediately placed in a health care facility or other emergency shelter and that the person is incapable of giving consent, the peace officer may transport the person to an appropriate medical facility or emergency shelter.

(b) The peace officer shall immediately or at the beginning of the next working day notify the Department of such transfer and of the circumstances which necessitated it and any other relevant information.

(c) The adult protective services unit shall investigate, and if involuntary protective services are needed on a continuing basis for a person so transported, proceedings shall be initiated for supplying such services pursuant to § 3908 of this title or pursuant to § 3901 of Title 12.

**§ 3908 Emergency order for protective services.**

(a) Upon petition by the Public Guardian or adult protective services unit of the Department, the Court may issue an order authorizing the provision of protective services on an emergency basis to an adult person after finding on the record, based on a preponderance of the evidence that:

- (1) The person is impaired or incapacitated, as defined in § 3902(2) or (19) of this title;
- (2) An emergency exists, as defined in § 3902 of this title;
- (3) The person lacks the capacity to consent to receive protective services;
- (4) No person authorized by law or Court order to give consent for the person is available and willing to consent to emergency services; and
- (5) There are compelling reasons for ordering services.

(b) In an emergency order, the Court is to consider:

(1) Only such protective services as are necessary to remove the conditions creating the emergency shall be ordered; and the Court shall specifically designate the approved services in its order.

(2) Protective services authorized by an emergency order shall not include hospitalization or change of residence unless the Court specifically finds such action is necessary and gives specific approval for such action in its order.

(3) Protective services may be provided through an emergency order for a maximum of 90 days upon a showing to the Court that continuation of the original order is necessary to remove the emergency. During this period the person who is impaired may petition the Court to have the emergency order removed.

(4) In its order, the Court shall appoint the petitioner or another interested person other than the service provider as temporary guardian of the person of the person who is incapacitated. The temporary guardian shall assume responsibility for the person's welfare and be granted therein authority to give consent for the person for the approved protective services until the expiration of the order.

(5) The issuance of an emergency order and the appointment of a temporary guardian shall not deprive the person of any rights except to the extent validly provided for in the order of appointment.

(6) To implement an emergency order, the Court may authorize forcible entry of the premises of the person for the purpose of rendering protective services or transporting the person to another location for such services. Such forcible entry may be authorized only after a showing to the Court that attempts to gain voluntary access to the premises have failed and forcible entry is necessary. The order of the Court shall include an order to the appropriate police department authorizing forcible entry.

(c) The petition for an emergency order shall set forth to the best of the petitioner's knowledge and belief:

- (1) The name, address and interest of the petitioner;
- (2) The name, address and approximate age of the person in need of protective services;
- (3) If the information can be obtained and if any exist, the names and addresses of the spouse and next of kin of the person;
- (4) The petitioner's attempts to contact the persons named in paragraph (c)(3) of this section and their responses to the situation;
- (5) The petitioner's reasonable belief, together with facts supportive thereof, as to the existence of the facts stated in paragraphs (a)(1) through (4) of this section;
- (6) Facts showing petitioner's attempts to obtain the person's consent to the services and the outcomes of such attempts; and
- (7) The proposed protection services.

(d) Actual notice of the filing of such petition, and other relevant information including the factual basis of the belief that emergency services are needed and a description of the exact services to be rendered, shall be given to the person, and at the Court's discretion, to the person's spouse, or if none, to the person's adult children, next of kin or guardian if any. Notice to any parties other than the person in need of services may be waived by the Court if the petition avers with specificity that such notice would be detrimental to the person who is impaired. Such notice shall be given in language reasonably understandable by their intended recipients at least 24 hours prior to the hearing for emergency intervention, and longer if possible.

(e) Upon the filing of a petition for an emergency order for protective services, the Court shall hold a hearing within 7 days or immediately, if necessary, pursuant to § 3909 of this title.

(f) If the person continues to need protective services after the order and renewal provided for in paragraph (b)(3) of this section has expired, such services can only be rendered pursuant to the appointment of a guardian.

(g) The petitioner or other witness supplying information shall be immune from civil liability for damages as a result of filing the petition if the petitioner acted in good faith and believed the person to be in need of such assistance.

(h) The authority of the police departments of this State to transfer a person to a mental health facility in cases of a psychiatric emergency are not affected by this chapter.

(i) Whenever the Court finds, based upon a verified petition, affidavit or other evidentiary materials, that probable cause exists to believe that: (1) a person is impaired or incapacitated, as defined in § 3902(2) or (19) of this title; (2) that an emergency exists, as defined in § 3902 of this title; (3) that the emergency threatens serious harm to such person which harm may occur before a hearing on the petition for an emergency order may be held; (4) that the person is located in the building or premises described; and (5) that entry or access to said building or premises is being denied, the Court may issue an order for entry. The order for entry shall be signed by the Court, and shall contain the address of the building or premises where the person is located and the name of the person reported to be in need of protective services. The order for entry shall command that entry to the building or premises where the person is located be permitted for the purpose of seeing or interviewing, assessing and counseling the person named in the order. The order for entry shall permit entry on a day certain, which shall be set forth in the order. Nothing contained in this subsection shall in any way be construed to limit or restrict entry where the consent of the owner, lessor or lawful occupant is obtained. Whenever a member of the Court is unavailable, any judge of the Superior Court may exercise the powers conferred by this subsection.

### **§ 3909 Hearing on petition.**

(a) The hearing on a petition for involuntary protective services shall be held under the following conditions:

(1) The person needing protective services shall be present unless the person has knowingly and voluntarily waived the right to be present or unless, because of physical or mental incapacity, the person cannot be present without endangering the person's welfare. Waiver or incapacity may not be presumed from nonappearance but shall be determined on the basis of factual information supplied to the Court by counsel or a caseworker.

(2) The person who is impaired has the right to counsel whether or not the person is present at the hearing. If the person is indigent or lacks the capacity to waive counsel, the Court shall appoint counsel. Where the person is indigent, the Court shall assess reasonable attorney's fees, such as are customarily charged by attorneys in this State for comparable services. To the extent that funding for this purpose is budgeted and available, such funds shall be drawn from the budget for adult protective services upon an order directing payment signed by the Court.

(3) The person who is impaired has the right at the expense of the person who is impaired or, if indigent, at the expense of the State, to secure an independent medical and/or psychological examination relevant to the issue involved in any hearing under this section, and to have presented a report of this independent evaluation or to have the Court hear the evaluator's personal testimony as to the condition and circumstances of the person who is impaired as a part of the evidence presented in the behalf of the person who is impaired at the hearing. The person who is impaired shall have the right to have witnesses and evidence subpoenaed in the behalf of the person who is impaired and to have presented at the hearing such witnesses and evidence in support of the position of the person who is impaired as the person who is impaired desires.

(b) The Court shall record a statement of its findings in support of any order for emergency protective services.

#### **§ 3910 Duty to report.**

(a) Any person having reasonable cause to believe that an adult person is impaired or incapacitated as defined in § 3902 of this title and is in need of protective services as defined in § 3904 of this title shall report such information to the Department in the manner and format published by the Department.

(b) Upon receipt of a report, the Department shall make a prompt and thorough evaluation to determine whether the person named is in need of protective services and what services are needed, unless the Department determines that the report is frivolous or is without a factual basis. The evaluation may include a visit to the person and consultation with others having knowledge of the facts of the particular case. If outside professional assistance is required in order for a caseworker to complete an evaluation, the Department may contract with professionals in order to provide such services.

(c) If an employee of a financial institution who has direct contact with an elderly person has reasonable cause to believe that such elderly person who is an account holder may be subject to past, current or attempted financial exploitation, that employee shall follow any internal written policy, program, plan or procedure adopted by the financial institution for the purpose of establishing protocols for the reporting of past, current or attempted financial exploitation. Said policies, programs, plans or procedures shall require written reporting to the Department, in the format published by the Department, by the earlier of the date on which the financial institution completes its investigation or 5 business days after the bank identifies a suspicious transaction pursuant to the policies, programs, plans or procedures adopted by the financial institution. Such policies, programs, plans or procedures may, in addition, allow reporting to agencies such as the Delaware Department of Justice or the Federal Trade Commission. In addition, said institution shall be empowered to place a hold on a proposed transaction for a period of 10 business days following the filing of the report. The proposed transaction can be held another 30 business days at the request of an investigating federal or state agency or if the financial institution has not heard from either the Department or the Delaware Department of Justice, or the financial institution may seek injunctive relief from a court of competent jurisdiction.

(d) Any person or entity participating in good faith in reporting or holding or not holding a transaction pursuant to this chapter shall have immunity from any liability, civil, administrative, or criminal that might otherwise exist as a result of reporting or holding or not holding the transaction.

(e) Unless a hold is requested by the Department or the Delaware Department of Justice, a financial institution is not required to hold a transaction when provided with information alleging that financial exploitation may have occurred, may have been attempted, or is being attempted, but may use its discretion to determine whether or not to refuse to hold a transaction based on the information available to the financial institution.

(f) A financial institution may provide access to or copies of records that are relevant to suspected financial exploitation or attempted financial exploitation of an elderly person or vulnerable adult to the Department, law enforcement, or the prosecuting attorney's office, either as part of a referral to the Department, law enforcement, or the prosecuting attorney's office, or upon request of the Department, law enforcement, or the prosecuting attorney's office pursuant to an investigation. The records may include historical records as well as records relating to the most recent transaction or transactions that may comprise financial exploitation, not to exceed 30 calendar days prior to the first transaction that was reported or 30 calendar days after the last transaction that was reported.

**§ 3911 Adult under treatment by spiritual means not abused, mistreated, neglected, infirm or incapacitated.**

Nothing in this chapter shall be construed to mean an adult is abused, mistreated, neglected, infirm or incapacitated or in need of protective services for the sole reason the person relies upon, or is being furnished with, treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination; nor shall anything in this chapter be construed to authorize or require any medical care or treatment over the implied or express objections of said person.

**§ 3912 Confidentiality of records.**

(a) All records and information in the possession of the Department or anyone providing service to an adult protective services alleged victim and the alleged victim's relatives shall be deemed confidential, and shall be disclosed only pursuant to an appropriate court order, or pursuant to the consent of the recipient of the services, where the recipient is legally competent to so consent. Notwithstanding the foregoing, disclosure shall not be unlawful when necessary for purposes directly connected with the administration of adult protective services, or when the identity of the recipient or recipients of such services is not revealed by the disclosure, such as in the case of disclosure of statistics or other such summary information.

(b) Violation of this section is an unclassified misdemeanor. The Superior Court shall have jurisdiction over violations of this section.

(c) Any staff person of adult protective services or anyone providing service to an adult protective services alleged victim who violates these provisions and improperly discloses confidential information shall immediately be removed or dismissed.

**§ 3913 Violations.**

(a) Any person who knowingly or recklessly abuses, neglects, exploits or mistreats an adult who is impaired shall be guilty of a class A misdemeanor.

(b) Any person who knowingly or recklessly exploits an adult who is impaired by using the resources of an adult who is impaired shall be guilty of a class A misdemeanor where the value of the resources is less than \$500 and a class G felony where the value of the resources is \$500 or more but less than \$5,000. If the value of the resources is \$5,000 or more but less than \$10,000, the person shall be guilty of a class E felony. If the value of the resources is \$10,000 or more but less than \$50,000, the person shall be guilty of a class D felony and if the value of the resources is \$50,000 or more the person shall be guilty of a class C felony. Any subsequent conviction under this subsection shall be treated as a class C felony regardless of the amount of resources exploited.

(c) Any person who knowingly or recklessly abuses, neglects, exploits or mistreats an adult who is impaired, and causes bodily harm, permanent disfigurement or permanent disability shall be guilty of a class D felony. Where the abuse, mistreatment or neglect results in death, such person shall be guilty of a class A felony.

## **APPENDIX I**

### **COUNCIL ON SERVICES FOR AGING AND ADULTS WITH PHYSICAL DISABILITIES STATUTE**

#### **Title 29. State Government.**

#### **Chapter 79. Department of Health and Social Services**

§ 7915 Council on Services for Aging and Adults with Physical Disabilities.

(a) There is established the Council on Services for Aging and Adults with Physical Disabilities.

(b) The Council on Services for Aging and Adults with Physical Disabilities (the Council) shall serve in an advisory capacity to the Director of the Division of Services for the Aging and Adults with Physical Disabilities and shall consider matters relating to the formation of local community councils for the aging and for adults with physical disabilities, programs and projects in this State to benefit the aging and adults with physical disabilities and such other matters as may be referred to it by the Governor, the Secretary of the Department or the Director of the Division of Services for the Aging and Adults with Physical Disabilities. The Council may study, research, plan and advise the Director, the Secretary and the Governor on matters it deems appropriate to enable the Division to function in the best possible manner.

(c) The Council on Services for Aging and Adults with Physical Disabilities shall be composed of 15 members. Members shall be appointed by the Governor for terms of up to 3 years. The terms of the Council members shall be staggered in such a manner so that the terms of no more than 7 members expire in 1 year. The Council shall consist of the following:

(1) Three members, each being a resident from a different county in this State and an aging or elderly person or a caregiver of an aging or elderly person as defined in § 7920 of this title.

(2) Four members, each being from a public or nonprofit agency that provides services to aging persons.

(3) Three members, each being a resident from a different county in this State and an adult with a physical disability or a caregiver of an adult with a physical disability as defined in § 7920 of this title.

(4) Four members, each being from a public or nonprofit agency that provides services to persons with physical disabilities.

(5) One member who represents veterans' issues.

(d) The Council membership shall be composed of representatives in the following areas: aging persons, representatives of public and/or nonprofit agencies that serve aging persons, persons with a physical disability, low income older persons, low income persons with a physical disability, minority older persons, minority persons with a physical disability, veterans' affairs, and representatives of public and/or nonprofit agencies that serve adults with physical disabilities. Each Council member can be representative of more than 1 area, but no Council member shall be representative of more than 3 areas.

(e) Members of the Council shall serve without compensation, except that they may be reimbursed for reasonable and necessary expenses incident to their duties as members of the Council.

(f) A Chairperson of the Council shall be elected annually by the members of the Council from among its members, except that the office shall rotate between representatives of the aging community and representatives of adults with physical disabilities. In its first year of operation, the



Council shall be chaired by a representative of the aging community. In its second year of operation, the Council shall be chaired by a representative of adults with physical disabilities. Thereafter, the chairperson shall alternate and shall serve a 2-year term. A chairperson shall be eligible to serve 2 nonconsecutive terms.

(g) Any replacement appointment to the Council to fill a vacancy prior to the expiration of a term shall be filled for the remainder of the term.

(h) Members who are absent from more than 3 consecutive meetings, unless excused by the Council, shall be discharged from the Council by the Council Chairperson.

(i) The Council may establish subcommittees and make appointments to any such subcommittees with the approval of all members of the Council.

(j) A quorum of the Council consists of a majority of the council members.

(k) All decisions made by the Council relative to policy and budget shall be made by a majority of the members present at a meeting with a quorum. Staff assistance shall be given to the Council and any subcommittees.

# Adult Protective Services

## Contents

- [1 What is Adult Protective Services?](#)
- [2 Why is Adult Protective Services needed?](#)
- [3 Adult Protective Services and Self-Neglect](#)

## What is Adult Protective Services?



*An APS caseworker investigating a report of self-neglect*

Adult Protective Services is a state-run social services program that ensures the safety and protection of the elderly and adults with disabilities (the [National Adult Protective Services Association](#) [NAPSA], n.d.a). It is legally required in all states. Adult Protective Services caseworker are often the first people to see cases of elder abuse and neglect. Adult Protective Services works with health care providers, firefighters, and police to help those with self-neglect (NAPSA, n.d.a).

Each state has its own laws, but regardless of location, all Adult Protective Services agencies share the following basic principles:

- A person has the right to make their own decisions. If of sound mind, the person has the right to refuse treatment even when harm can result;
- Solutions with least restrictions are usually used;
- The family unit is maintained when possible;
- The use of community-based services rather than institutions (e.g., sending the person to a nursing home);
- The avoidance of blame; and
- Inadequate or inappropriate services are worse than no service at all (NAPSA, n.d.b).



There are APS offices all over the nation for all communities. If you have any issues, concerns or questions, it is always confidential and safe to contact an APS office near you (NAPSA, n.d.a).

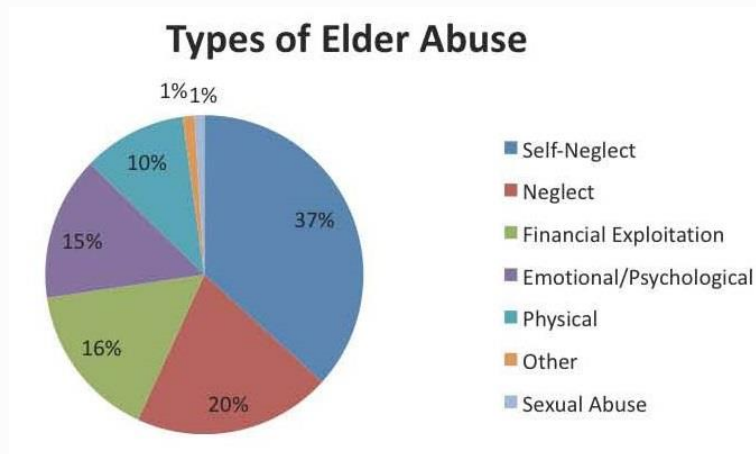
## Why is Adult Protective Services needed?

There are many older adults and individuals with disabilities living in the community, often alone with no outside help. Some of these individuals face abuse, neglect or exploitation by others (NAPSA, n.d.a); this is called abuse or elder abuse in adults older than 65 years. These individuals may also intentionally or unintentionally behave in ways that lead to self-harm, this is called self-neglect. In addition to those being abused, there are others who may simply struggle with even the simplest activities needed for good health. In order to protect and assist these

vulnerable individuals, states have created APS agencies. Adult Protective Services intervene when necessary to maintain the safety, health, and independence of this population.

## Adult Protective Services and Self-Neglect

Self-neglect is the most common condition handled by APS. In some cases, self-neglect is responsible for 40% and sometimes 50% of all investigations ([Arizona Attorney General Mark Brnovich](#), n.d.).



*Types of elder abuse for Cuyahoga County Department of Senior and Adult Services, Ohio in 2013*

Adult Protective Services caseworkers are usually the first to investigate reported cases of self-neglect. It requires special social work knowledge to diagnose and intervene in self-neglect. Social workers of various types tend to be the professionals most often called in to respond to self-neglect cases. If self-neglect exists, caseworkers develop a service plan. The ultimate goal is to maintain the safety, health and independence of the individual (Rathbone-McCuan, 2014; NAPSA, n.d.a).

Plans may vary, but often include:

- Giving the individuals options on how to keep him/her safe in their home,
- Connecting the individual with family and community resources,
- Alerting unaware family/friends to help, and
- Offer ways to help caregivers handle stress.

Because self-neglect is a complex problem, each case will have unique circumstances and challenges. For example, APS may help self-neglecting individuals by arranging home services. These home services may be sufficient to keep these individuals in their house. Others may need help with bathing, or pest-control, or meal delivery, or clutter removal, or a combination of these items. In some cases, APS may discover a crisis that requires emergency transport to the hospital.

## References

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Rathbone-McCuan, E. (2014). An improved approach to treating elder self-neglect: The Self-Care Framework. *Generations*, 38(3), 80-85.

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Last updated: March 13, 2017 at 22:15 pm by

I. M. Abumaria, AGPCNP-BC

Version 1.00

**APPENDIX J**  
**DSAAPD AUDITS**

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## DELAWARE HEALTH AND SOCIAL SERVICES

*Division of Services for Aging and Adults with Physical Disabilities*

**Reference Number:** 2017-XXX  
**Prior Year Finding:** No  
**Federal Agency:** U.S. Department of Health and Human Services  
**State Department Name:** Department of Health and Social Services  
**State Division Name:** Division of Services for Aging and Adults with Physical Disabilities  
**Federal Program:** Aging Cluster  
**CFDA Number:** 93.044, 93.045, 93.053  
**Award Number and Year:** 17AADET3 (10/1/16 – 9/30/17)  
**Compliance Requirement:** Allowable Costs / Cost Principles – Time and Effort Reporting  
**Type of Finding:** Significant Deficiency in Internal Control over Compliance, Noncompliance

### **Criteria or specific requirement:**

Control: Per 2 CFR section 200.303(a), a non-Federal entity must: Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Compliance: 2 CFR 200.430 (i) Standards for Documentation of Personnel Expenses states that: Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must: (i) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated; (ii) Be incorporated into the official records of the non-Federal entity; (iii) Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities (for IHE, this per the IHE's definition of IBS); (iv) Encompass both federally assisted and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity's written policy; (v) Comply with the established accounting policies and practices of the non-Federal entity (See paragraph (h)(1)(ii) above for treatment of incidental work for IHEs.); and (vi) [Reserved] (vii) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.

### **Condition:**

Time and effort certifications were not documented in accordance with federal requirements. The time and effort documentation was certified five months after the certification period and after the documentation was requested by the auditor.



**Context:**

Ten out of forty time and effort certifications were not documented in accordance with federal requirements.

**Questioned costs:**

No questioned costs were related to this finding. The costs charged for the employees were allowable to the grant.

**Cause:**

The Division did not consistently perform current time and effort procedures.

**Effect:**

The Division did not establish effective internal controls over time and effort certifications. The Division increases the risk of charging un-allowed costs to the program.

**Recommendation:**

The Division should evaluate their procedures to determine if they are adequate to prevent the finding from reoccurring.

**Views of responsible officials:**

The Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) acknowledges that we did, in fact, receive the attestations in a timely manner, and had them readily available despite the dates being missing. DSAAPD will review its formal policy regarding the review and approval of supporting documentation received and will modify its review structure by re-educating staff of the structure and policies in place regarding Time and Effort reporting.



**John Cannon**

*DSAAPD Chief Operations Officer*



## DELAWARE HEALTH AND SOCIAL SERVICES

*Division of Services for Aging and Adults with Physical Disabilities*

**Reference Number:** 2017-XXX  
**Prior Year Finding:** 2016-006  
**Federal Agency:** U.S. Department of Health and Human Services  
**State Department Name:** Department of Health and Social Services  
**State Division Name:** Division of Services for Aging and Adults with Physical Disabilities  
**Federal Program:** Aging Cluster  
**CFDA Number:** 93.044, 93.045, 93.053  
**Award Number and Year:** 14AADET3 - 17AADET3 (10/1/13 – 9/30/17)  
**Compliance Requirement:** Reporting – SF-425 Federal Financial Report  
**Type of Finding:** Material Weakness in Internal Control over Compliance, Material Noncompliance

### **Criteria or specific requirement:**

Control: Per 2 CFR section 200.303(a), a non-Federal entity must: Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Compliance: Per DHSS Administration for Community Living, the Federal Financial Report (SF-425) is due semi-annually. Reports are due within 30 days for the periods ending March 30 and September 30.

### **Condition:**

The SF-425 Federal Financial Reports contained numerous errors which were quantitatively and qualitatively material to the accuracy of the report. The SF-425 is used to report federal share of expenditures, recipient share of expenditures, and program income earned to the Federal Government. DHSS Administration for Community Living (ACL) requires each line of the report to be accurate and supported by valid documentation.

During the audit we noted the following:

Report Ending 9/30/16:

- Title III C1 2014 Program Income – Amount reported was \$585,677; however, supporting documentation revealed an amount of \$565,677.
- Title III C2 2015 Federal Share of Expenditures – Amount reported was \$1,075,670; however, supporting documentation revealed an amount of \$478,921.
- Title III C1 and C2 2015 Recipient Share of Expenditures – Amount was incorrectly reported on the C2 report instead of the correct C1 report. Further, amount reported on the C2 was \$1,584,382; however, supporting documentation revealed an amount of

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\$1,388,852. Amount reported on the C1 was \$795,000; however, supporting documentation revealed an amount of \$990,527.

Report Ending 3/31/17:

Title III C1 2017 Recipient Share of Expenditures – Amount reported was \$374,298; however, supporting documentation revealed an amount of \$14,298



*John Cannon*

***DSAAPD Chief Operations Officer***

**Reference Number:** 2018-008  
**Prior Year Finding:** 2017-008  
**Federal Agency:** U.S. Department of Health and Human Services  
**State Department Name:** Department of Health and Social Services  
**State Division Name:** Division of Services for Aging and Adults with Physical Disabilities  
**Federal Program:** Aging Cluster  
**CFDA Number:** 93.044, 93.045, 93.053  
**Award Number and Year:** 16AADET, 16AADEN – 18AADET, 18AADEN (10/1/2015 – 9/30/2018)  
**Compliance Requirement:** Reporting – SF-425 Federal Financial Report  
**Type of Finding:** Significant Deficiency in Internal Control over Compliance, Noncompliance

**Criteria or specific requirement:**

Control: Per 2 CFR section 200.303(a), a non-Federal entity must: Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Compliance: Per DHHS Administration for Community Living, the Federal Financial Report (SF-425) is due semi-annually. Reports are due within 30 days for the periods ending March 31 and September 30.

**Condition:**

The SF-425 Federal Financial Report is used to report federal share of expenditures, recipient share of expenditures, and program income earned to the Federal Government. DHHS Administration for Community Living (ACL) requires each line of the report to be accurate and supported by valid documentation.

During the audit we noted the following errors:

Report Ending 3/31/2018:

- Title VII Ombudsman 2018 Recipient Share of Expenditures – Amount reported was \$13,480; however, documentation supported an amount of only \$0.
- Title III B 2016 Recipient Share of Expenditures – Amount reported was \$3,142,775; however, documentation supported an amount of \$3,172,775.

**Context:**

The two semi-annual reports submitted during FY18 were selected for testing. Errors were noted on the report submitted for quarter end 3/31/2018.

**Questioned Costs:**

Undetermined.

**Cause:**

Supervisory review failed to detect the errors.

**Effect:**

The SF-425 Federal Financial Report was incorrect and may affect future program funding.

**Recommendation:**

We recommend that the Division enhance its current process for preparing and reconciling supporting documentation to ensure the proper information is reported on the semi-annual SF-425 Federal Financial Reports.

**Views of responsible officials:**

The Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) will continue to strengthen its current process, procedure and policies to insure that all supporting documentation is maintained and organized for future audits. DSAAPD will continue to educate key fiscal staff to add another layer of review of all future reports. DSAAPD will have a senior level supervisor complete a final review prior to submission of the SF425 Report.

**Reference Number:** 2018-015  
**Prior Year Finding:** No  
**Federal Agency:** U.S. Department of Health and Human Services  
**State Department Name:** Department of Health and Social Services  
**State Division Name:** Division of Services for Aging and Adults with Physical Disabilities  
**Federal Program:** Aging Cluster  
**CFDA Number:** 93.044, 93.045, 93.053  
**Award Number and Year:** 16AADET, 16AADEN – 18AADET, 18AADEN (10/1/2015 – 9/30/2018)  
**Compliance Requirement:** Period of Performance  
**Type of Finding:** Significant Deficiency in Internal Control over Compliance, Noncompliance

**Criteria or specific requirement:**

Control: Per 2 CFR section 200.303(a), a non-Federal entity must: Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

Compliance: Per 2 CFR section 200.309, a non-Federal entity may charge to the Federal award only allowable costs incurred during the period of performance (except as described in §200.461 Publication and printing costs) and any costs incurred before the Federal awarding agency or pass-through entity made the Federal award that were authorized by the Federal awarding agency or pass-through entity.

**Condition:**

Costs were incurred and charged to the federal grant prior to the allowable start of the period of performance.

**Context:**

Two out of six transactions were incurred prior to the start of the period of performance.

**Questioned Costs:**

Questioned costs in the amount of \$2,334 were determined which represent the total amount for the two transactions incurred and charged to the federal grant prior to the allowable start of the period of performance.

**Cause:**

The Division did not enhance their internal controls over period of performance processes to ensure that errors were prevented and/or detected.

**Effect:**

The Division's internal controls are ineffective for detecting the errors. The Division did not establish effective internal controls over period of performance.

**Recommendation:**

The Division should evaluate their current procedures and determine if they are adequate to prevent the finding from reoccurring.

**Views of responsible officials:**

The Division of Services for Aging and Adults with Physical Disabilities (DSAAPD) acknowledges that we did, in fact, incorrectly coded the Internal-Governmental Voucher (IV) mentioned in this audit. DSAAPD has corrected the IV mentioned. DSAAPD will re-educate the fiscal staff on the policy and regulations of the use of Federal Awards and Non-Federal Awards. We will re-enforce the current policy on review and approval of all supporting documents and correct coding of all funding source.