

TO BE RESCINDED

5160-45-05

ODJFS-administered waiver program: consumer incident management, investigation and response system (IMIRS).

- (A) The Ohio department of job and family services (ODJFS) shall operate a consumer incident management, investigation and response system (IMIRS). This rule sets forth the standards and procedures for operating IMIRS. This rule applies to ODJFS and ODJFS-administered waiver service providers. ODJFS may designate other agencies or entities to perform one or more of the investigatory functions set forth in this rule.
- (B) ODJFS shall maintain the secure storage of ODJFS-approved occurrence reporting forms, ODJFS-approved incident narrative forms, and any associated investigation reports and related documents. All such documents shall be filed according to the name of the consumer, and in an area separate from the consumer's clinical record. Nothing shall prohibit the use of technology-based systems in collecting and maintaining the documentation required by this rule.
- (C) Reportable incidents shall include, but not be limited to:
- (1) Physical, emotional, mental and/or sexual abuse of a consumer;
 - (2) Neglect of a consumer;
 - (3) Abandonment of a consumer;
 - (4) Exploitation of a consumer;
 - (5) Death of a consumer;
 - (6) Accident or injury of a consumer;
 - (7) An unexpected crisis in the consumer's family or environment, with health and welfare implications for the consumer;
 - (8) Loss of a consumer's informal caregiver or family member, with health and welfare implications for the consumer;
 - (9) Inappropriate delivery of services to a consumer, with health and welfare implications for the consumer;

- (10) Services provided to a consumer that are beyond the provider's scope of practice;
 - (11) Services delivered to a consumer without physician's orders;
 - (12) Errors in the administration of medication to the consumer;
 - (13) Alleged illegal activity by the consumer or in the consumer's environment;
 - (14) Inappropriate use or abuse of substances by the consumer;
 - (15) Theft of the consumer's money;
 - (16) Theft of the consumer's personal property; and
 - (17) Theft of the consumer's medication.
- (D) Reporting, notification and response requirements of reportable incidents.
- (1) If an ODJFS-administered waiver provider learns of a reportable incident, the provider must report the incident to ODJFS within twenty-four hours.
 - (2) If ODJFS receives a report of an incident, ODJFS shall contact the appropriate investigatory or law enforcement authority including, but not limited to any of the following:
 - (a) The law enforcement agency having jurisdiction over the location at which the incident occurred, if the reportable incident includes conduct that would constitute a possible criminal act, including abuse or neglect.
 - (b) The public children services agency (PCSA) or the public adult protective services units having jurisdiction over the location where the consumer resides, if applicable.
 - (c) The county board of mental retardation and developmental disabilities (CBMR/DD) for all allegations of abuse, neglect and other major unusual incidents.
 - (d) The community mental health board or the county board of alcohol, drug

addiction and mental health services, as appropriate, if mental health services are identified on the consumer's all services plan.

(e) The alcohol and drug addiction services board or the county board of alcohol, drug addiction and mental health services, as appropriate, if alcohol and drug addiction services are identified on the consumer's all services plan.

(f) The Ohio department of health or the appropriate licensing or certifying board.

(E) ODJFS shall conduct investigations of reportable incidents as follows:

(1) ODJFS shall review all available information to assure there are adequate safeguards to protect the consumer's health and welfare.

(2) ODJFS shall not delegate the investigation of the following types of incidents to its designee:

(a) Reportable incidents that include an allegation in which an employee of the designee may be responsible for the death, or abuse or neglect of a consumer; or

(b) Reportable incidents of a consumer's death where the circumstances of the death may be suspicious in nature.

(3) ODJFS shall review the information gathered in the investigation, and may consider the recommendations of its designee, to determine if the reported incident is substantiated.

(F) Substantiated reportable incidents involving ODJFS-administered waiver service providers.

(1) ODJFS shall notify ODJFS-administered waiver service providers via certified mail upon substantiation of a reportable incident(s). The certified letter shall:

(a) Outline the alleged behavior or practice to be stopped;

(b) Specify the Administrative Code rule(s) that support(s) the finding(s) of noncompliance;

- (c) Specify what the provider must do to correct the finding(s); and
 - (d) Specify the timeframe within which the provider must submit a plan of correction to ODJFS, not to exceed fifteen calendar days after the date the letter was mailed.
- (2) If ODJFS finds the provider's plan of correction acceptable, it shall approve the plan and confirm to the provider, in writing, that the plan addresses the issues of noncompliance outlined in the certified letter. If ODJFS determines that it cannot approve the provider's plan of correction, it shall inform the provider in writing, require the provider to submit a new plan of correction, and specify the required actions that must be included in the new plan of correction. The provider must submit the new plan of correction within the timeframe specified by ODJFS.
- (3) ODJFS shall impose sanctions upon the provider in accordance with rule 5101:3-45-09 of the Administrative Code if the provider:
- (a) Refuses to accept the certified letter when it is delivered;
 - (b) Has not followed the plan of correction and/or successfully achieved the plan's desired results;
 - (c) Has not submitted a plan of correction or has not had a plan of correction approved;
 - (d) Has not complied with the timeframes outlined in this rule;
 - (e) Has failed to protect consumers from repeated and substantiated reportable incidents; and/or
 - (f) Has created a serious and immediate threat to the health and/or welfare of the consumer.
- (G) At its discretion, ODJFS may conduct a separate, independent review or investigation of any reportable incident.
- (H) ODJFS or its designee shall provide a written summary of the investigative findings to the reporter of a reportable incident, unless such action may jeopardize the health and welfare of the consumer. ODJFS and its designee shall assure adherence to all

consumer confidentiality and health insurance portability and accountability act (HIPAA) requirements.

- (I) ODJFS or its designee shall determine when to close cases of suspected abuse, neglect, death and exploitation, as well as any other reportable incidents investigated by the department.
- (J) ODJFS shall be responsible for ensuring that all cases are properly closed and may request further review, if necessary.

Effective:

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Certification

Date

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