IDAPA 15 – OFFICE OF THE GOVERNOR

IDAHO COMMISSION ON AGING

15.01.02 – Rules Governing Adult Protective Services Programs

Who does this rule apply to?
Area Agency on Aging (AAA), ICOA contractors and providers, and AAA contractors and providers.

What is the purpose of this rule?
The rule describes the requirements for providers administering Adult Protective Services in Idaho.

What is the legal authority for the agency to promulgate this rule?
This rule implements the following statutes passed by the Idaho Legislature:

State Government and State Affairs -
Commission on Aging:
- Section 67-5003, Idaho Code – Power and Duties of Commission

Health and Safety -
Adult Abuse, Neglect and Exploitation Act:
- Section 39-5312, Idaho Code – Rules

Who do I contact for more information on this rule?

Idaho Commission on Aging
341 W. Washington Street
Boise, ID 83720

P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3800
Email: ICOA@aging.idaho.gov
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000. AUTHORITY.
Under authority of Sections 67-5003 and 39-5312, Idaho Code, the ICOA adopts the following rules. (4-6-23)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 15.01.02, "Rules Governing Adult Protective Services Programs." (4-6-23)

02. Scope. These rules relate to the authority and responsibilities of Providers to administer adult protective services. (4-6-23)

002. -- 009. (RESERVED)

010. DEFINITIONS.
Any item not specifically defined below has the same meaning as those defined in Idaho Code Title 39 Chapter 53 "Adult Abuse, Neglect, and Exploitation Act" or IDAPA 15.01.01, "15.01.01, "Rules Governing Senior Services and Older Americans Act Programs." (4-6-23)

01. Adult Protective Services (APS). The legal and bureaucratic systems and protections safeguarding vulnerable adults through investigations of reports alleging vulnerable adult maltreatment and arrangements for the provision of emergency or supportive, and preventative services necessary to reduce or eliminate risk of harm. (4-6-23)

02. Provider. An Area Agency on Aging or a person or entity capable of providing APS, including duly authorized agents and employees. (4-6-23)

011. -- 019. (RESERVED)

020. POLICY STATEMENT.
The ICOA is charged by statute to provide APS services to ensure the vulnerable adult population in Idaho is protected from vulnerable adult maltreatment. Protective services will be provided that are the least restrictive to personal freedom and ensure the maximum independence of individuals served. In protecting the vulnerable adult population, APS may also provide assistance to caregivers experiencing difficulties in maintaining or supporting a vulnerable adults. (4-6-23)

021. ADMINISTRATIVE REQUIREMENTS.
In accordance with Section 67-5011, Idaho Code, the ICOA will administer APS through contracts with Area Agencies on Aging. (4-6-23)

022. PROVISION OF SERVICE REQUIREMENTS.
In accordance with Section 67-5011, Idaho Code, each Provider assumes all responsibilities cited in Title 39, Chapter 53, Idaho Code. (4-6-23)

01. Confidentiality. All records relating to a vulnerable adult and held by a Provider are confidential and shall only be divulged as permitted pursuant to Idaho Code Sections 39-5307 and 39-5308 and Federal Law, whichever is more restrictive. (4-6-23)

02. Contracts. Each Provider must administer APS pursuant to contracts delineating the duties and obligations of the APS program. (4-6-23)

03. Court Visitors. Providers shall not serve as a court appointed visitor in a guardianship or conservatorship proceeding involving a proposed ward who is or has been the alleged victim in an APS investigation. (4-6-23)

04. Direct Provision of Service. Area Agencies on Aging will administer APS as a direct service or may subcontract the service to another Provider at the sole discretion of the Administrator. (4-6-23)

05. Provider Guidance: Provider guidance is developed, modified, and updated by the ICOA with input from appropriate stakeholder groups and approved by the Administrator. Guidance may be modified to adhere to state or federal law or regulations. Guidance may include manuals, training, standardized forms and assessment tools or other documentation as necessary. (4-6-23)

023. -- 030. (RESERVED)

031. INVESTIGATIVE REQUIREMENTS.

01. Review of Allegations. Upon receipt of an APS report of vulnerable adult maltreatment the Provider shall conduct a review of the allegations of such report to determine whether: (4-6-23)

a. The report was required to be made pursuant to Section 39-5303, Idaho Code; (4-6-23)

b. An emergency exists; and (4-6-23)

c. In cases involving resident-to-resident contact to determine whether the case involves the sexual abuse, death, or serious physical injury jeopardizing the life, health, or safety of a vulnerable adult, or involves repeated physical or verbal altercations between residents, not resulting in observable physical or mental injury, but constituting an ongoing pattern of resident behavior that a facility's staff is unable to remedy through reasonable efforts. (4-6-23)

02. Need for Investigation. If, based on its review, the Provider determines that a report involves a facility, and was required to be made to the Department pursuant to Section 39-5303, Idaho Code, the Provider shall immediately refer the report to the Department. If, based on its review, the Provider determines that a report involving resident-to-resident contact was exempted from reporting by Section 39-5303, Idaho Code, no further investigation need be conducted on such report. The Provider shall investigate all other reports. (4-6-23)

03. Vulnerability Determination. Upon investigating an APS report, the Provider shall determine whether an alleged victim is vulnerable. If the alleged victim is determined to be vulnerable the Provider shall continue the investigation to determine if the report is substantiated or unsubstantiated. If the alleged victim is not vulnerable the investigation shall be closed; however, the Provider may provide a referral to Information and Assistance, Case Management, the Ombudsman, law enforcement or other appropriate entity for investigation and resolution. (4-6-23)

04. Investigative Determinations. The Provider shall make one (1) of two (2) investigative determinations upon completion of an APS investigation: (4-6-23)

a. Substantiated. A report of vulnerable adult maltreatment by another individual is deemed substantiated when, based upon limited investigation and review, the Provider perceives the report to be credible. A substantiated report shall be referred immediately to law enforcement for further investigation and action. Additionally, the name of the individual against whom a substantiated report was filed shall be forwarded to the Department for further investigation. In substantiated cases of self-neglect, the Provider shall initiate appropriate referrals for supportive services with the consent of the vulnerable adult or his legal representative. (4-6-23)

b. Unsubstantiated. If a report is unsubstantiated, but the Provider determines that the vulnerable adult has unmet service needs, the Provider shall initiate appropriate referrals for supportive or prevention services with consent of the vulnerable adult or their legal representative. (4-6-23)

05. Caregiver Neglect. In investigating a report of caregiver neglect, the Provider shall take into account any deterioration of the mental or physical health of the caregiver resulting from the pressures associated with care giving responsibilities that may have contributed to the neglect of the vulnerable adult. In such cases, the Provider shall make every effort to assist the informal primary caregiver in accessing available social, supportive or prevention services necessary to reduce the risk to the vulnerable adult. Formal caregivers may be served at the discretion of the APS provider. (4-6-23)

032. -- 999. (RESERVED)

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