

SECTION V.14. Critical Incident Reporting

Critical Incident (hereafter referred to as incident) reports are essential methods of documenting, evaluating and monitoring certain **serious or severe** occurrences, and ensuring that the necessary people receive the information. These guidelines describe the information that the ASD need to carry out their monitoring and oversight responsibilities. Content reflects standard definitions, applicable populations for required reporting, timelines, and methods for reporting incidents.

A. Definition

Critical Incident is a serious or severe situations in which:

- Any actual or alleged event, incident or course of action involving the perceived or actual threat to a participant's health and welfare; or
- Any actual or alleged event, incident or course of action involving the perceived or actual threat to his/her ability to remain in the community.

B. Choices for Care (CFC) Services Subject to Critical Incident Reporting

As of August 2013, participants utilizing the following CFC services are subject to the Adult Services Division (ASD) Critical Incident process outlined in this section:

- Adult Family Care Home, and
- Money Follows the Person in all CFC settings.

C. Types of incidents that must be reported to Adult Services Division (ASD)

The types of situations that must be reported to ASD include but are not limited to the following incident types.

1. Alleged abuse/neglect & exploitation

All actual or suspected abuse, neglect or exploitation of or by a person enrolled in services as required by 33 V.S.A. Chapter 69. *NOTE: Providers will be reporting to both ASD and APS.*

2. Criminal Act

Any serious illegal act, alleged or suspected, must be reported, including any act that warrants incarceration of a person enrolled in services. Any circumstance indicating a duty to warn must be reported. If it would violate professional ethics or federal law to make such a report, one is not required.

3. Destruction of Property

Including but not limited to fire, flood, breakdown or cessation to the home's physical plant's major services (plumbing, heat, water supply, etc.) or supplied service, which disrupts the normal course of operation.

4. Medication Error

A medical error is a preventable adverse effect of care, whether or not it is evident or harmful to the person. This includes but is not limited to; administration of the wrong drug to the wrong person or in the wrong way or at the wrong time or wrong dose or wrong frequency or a missed dose. A participant's refusal to take a medication is not considered an error and should be documented in the person's record.

5. Medical Emergency

A serious, life threatening, medical event or injury, for a person served, that requires immediate emergency evaluation by medical professionals.

6. Missing Person

A person enrolled in services who is identified as missing by law enforcement, the media, staff, family, caregivers, or other natural supports (unexplained absence). A person served is considered "missing" if the person's housemate or support staff cannot locate him or her and there is reason to think that the person may be lost or in danger. A report is not required for people who live with unpaid caregivers or housemates (such as natural family), unless the caregiver or family requests assistance in locating the person or the person has been identified as missing by law enforcement.

7. Potential Media Involvement

Any incident, marked by seriousness or severity, that is likely to result in attracting negative public attention, or lead to claims or legal action against the State.

8. Seclusion or Restraint

CFC participant residing in an AFC home has the right to be free from any and all restraints. The use of any form of restraint of a CFC participant is strictly prohibited under this policy.

"Restraint" includes:

- **Mechanical restraint:** any items worn by or placed on the person to limit behavior or movement and which cannot be removed by the person. Mechanical restraints include devices such as mittens, straps, arm splints, harnesses, restraint chairs, bed rails and bed netting.
- **Physical restraint:** any method of restricting a person's movements by holding of body parts to keep the person from endangering self or others (including seclusion or physical escort to lead the person to a place he or she does not want to go).
- **Chemical restraint:** the administration of a prescribed or over-the-counter medicine when all the following conditions exist: the primary purpose of the medication is a response to problematic behavior rather than a physical health condition; and, the prescribed medicine is a drug or dosage which would not otherwise be administered to the person as part of a regular medication regimen; and, the prescribed medicine impairs the individual's ability to do or accomplish his or her activities of daily living (as compared to the individual's usual

performance when the medicine is not administered) by causing disorientation, confusion, or an impairment of physical or mental functioning.

9. **Suicide attempt (or lethal gesture)** Death would likely result from the suicide attempt or gesture and the person requires medical attention.

10. **Untimely or Suspicious death**

D Agency/Provider Reporting Procedures & Timeframe

The following process is required for all participants enrolled in the CFC Adult Family Care option, and CFC participants enrolled in Money Follows the Person in all settings.

1. Any CFC service provider that becomes aware of a critical incident listed above is required to complete a critical incident report (CFC 831) and submit it to ASD, as soon as possible, and no later than **48 hours of discovery of the incident**.
2. Reports shall be faxed to ASD: 802-871-3052 or scanned and emailed to the ASD Critical Incident email address within 48 hours of incident discovery.
3. If the reporter cannot access a fax machine or email within 48 hours, they must call (802)-871-3035 as soon as possible (ASAP) **within 48 hours** of discovery of the incident. ASD staff will document the incident while speaking with the Reporter. If ASD is not available to answer the CIR call, (after regular business hours or on the weekend) the reporter shall leave a voicemail message including at least their name and contact information and the person(s) involved in the incident. The reporter must submit a written report as soon as possible after the phone call.
4. Adult Protective Services: Pursuant to Vermont statute 33 V.S.A. Chapter 69, all Choices for Care service providers are mandated to report suspicion of adult abuse, neglect and exploitation to the Division of Licensing and Protection (DLP), Adult Protective Services (APS) <http://www.dlp.vermont.gov/protection>. Mandated reporters are required to submit a critical incident report to the Adult Services Division AND report **within 48 hours to APS** by calling 1-800-564-1612 or out-of-state call (802) 871-3326 or online at <http://www.dlp.vermont.gov/guidelines/report>.
5. For participants of the Adult Family Care option, the reporter of the incident shall also notify the participant's Authorized Agency **within 24 hours** of discovery of the incident.
6. For Adult Family Care option, the Authorized Agency shall notify the guardian, (private or public), case manager and home provider of any incident **within 24 hours** of discovery of the incident.
7. For non-Adult Family Care MFP participants, the reporter (if not the case manager) must notify the CFC case manager **within 24 hours** of discovery of the incident.

8. For non-Adult Family Care MFP participants, the case manager shall notify the legal guardian (private or public) and other appropriate service providers **within 24 hours** of discovery of the incident.
9. Licensed Providers: CFC providers that are licensed under the Vermont Home Health Agency Designation and Operation Regulations, Residential Care Home Licensing Regulations, Assisted Living Residence Licensing Regulations, and the Nursing Home Licensing and Operating Rule must also follow the applicable incident reporting criteria found in state regulation with the Division of Licensing and Protection <http://www.dlp.vermont.gov/regs>.
10. Internal Incident Reports: If the reporter works for an agency that has its own internal reporting requirement they must complete their internal process in addition to the ASD & APS reports.

E. DAIL/ASD Procedures & Timeframes:

1. When ASD receives an incident report during regular business hours, an ASD quality specialist will review the incident to determine if any action, remediation or improvement plan is needed and record the incident. ASD's follow-up response to each incident is based on multiple factors including but not limited to the individual's needs, the incident, actions taken and resolution to the incident.
2. When ASD quality specialist receives an incident report over the phone they will ask for all the information on Critical Incident Form (CFC 831).

ASD quality specialist will review the incident information to determine:

- If the incident meets the CIR definition
 - If the incident has been resolved
 - If the incident includes suspected abuse, neglect or exploitation
 - If the incident includes suspected Medicaid fraud or abuse
 - If appropriate actions were taken
 - If additional information is required
 - If investigation and remediation is required
 - If the report was made in the required timeframe
 - If there are any additional concerns triggered by the incident (trends)
3. ASD quality specialist will contact agencies, providers, family or appropriate authorities or emergency services for any incidents in which the CFC participant is still missing or in need of immediate assistance.
 4. ASD quality specialist will submit a report to APS for all incidents that include suspected abuse, neglect or exploitation **within 48 hours**.

5. ASD quality specialist will report all incidents that include suspected Medicaid fraud or abuse to Department of Vermont Health Access (DVHA) Program Integrity (PI) Unit (802.879.5900) **within 72 hours** of discovery of the incident report.
6. ASD quality specialist will contact appropriate individuals or agencies for additional information as necessary. ASD quality specialist may request an internal investigation report from the provider. ASD quality specialist may conduct an investigation incorporating the following information:
 - a. circumstances leading up to and culminating in the critical incident;
 - b. any current practice, procedure or factor involved in providing the service that contributed to the occurrence of the critical incident;
 - c. actions considered, developed or required as follow up to the critical incident
7. ASD Quality Specialist will review critical incident data to identify any repeat patterns, trends or concerns within **2 business days** of receipt of a report.
 - a. If there is a concern, the ASD Quality Specialist will follow up with the ASD Quality Improvement (QI) committee within **2 business days**.
 - b. The QI committee will review the information and determine if any actions are necessary within **2 business days** of receipt of the information.
 - c. If deemed necessary by the ASD QI committee a Critical Incident Improvement Plan may be requested from the provider which may include:
 - i. Actions to be taken to prevent reoccurrences or improve response in the event of similar incidents;
 - ii. A date by which the actions will be taken;
 - iii. The AA or provider agency staff responsible for taking the actions.
 - iv. The ASD Quality Specialist will work in collaboration with the involved entities to ensure completion of a Critical Incident Improvement Plan.
8. ASD Quality Improvement Committee will conduct oversight of staff and providers to ensure critical incident reporting policies are being followed. Corrective action will be taken as needed to ensure these entities comply with critical incident reporting requirements.