

SafetyNetWorks

Information for Elder-Adult-at-Risk and Adult-at-Risk Agencies
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IN THIS ISSUE

Justification for maintaining Adult Protective Services, Elder Adults-at-Risk and Adults-at-Risk agencies and functions in the public sector (county government).

BACKGROUND

Currently, in non-Family Care counties, Adult Protective Services (APS), Elder Adults-at-Risk (EAAR) and Adults-at-Risk (AAR) agencies are linked with long-term care programs due to funding and overlaps in service provision. That link is altered with the introduction of Family Care and managed care organizations (MCO) into a county.

In March 1997, the Department of Health Services convened a workgroup of state, regional and county staff, and disability and elder law advocates to discuss county roles and responsibilities in view of plans for long-term care redesign. The workgroup stressed the importance of Elder Adults/Adults-at-Risk (EA/AAR) and APS as a county (public) function.

As advocates for adults at risk, EA/AAR/APS staffs need to be independent to assure that their activities and service recommendations are not influenced by competing interests in risk-based managed care financing of the MCO. Related functions that support EA/AAR/APS agencies are within county government departments (law enforcement, corporation counsel, aging and disability resource centers, public health, and courts) and those relationships are essential to carry out core functions such as guardianships, prosecution of abusers, and coordination of needed services.

In other states, EA/AAR/APS is either a function of state, county or municipal government.

*Note: The elder adults/adults-at-risk and protective services systems established by § 46.90 and Ch. 55, Wis. Stat. are mechanisms for receiving and responding to reports of abuse, neglect and exploitation concerning individuals at risk; for organizing, planning and delivering services; and for determining when services or placement can be provided without consent of the individual, either with consent of a guardian or under a court order. **This document will use APS to define the interconnected APS, EAAR, and AAR systems that protect adults at risk.***

JUSTIFICATION

As agents of county government, EA/AAR/APS balances the individual's interests in safety and autonomy with the public interest in health and safety. EA/AAR/APS staffs do not provide direct long-term care services or management of long-term care services. EA/AAR/APS agencies work through partner organizations to organize, plan, establish and monitor services to protect an adult at risk.

The implementation of Family Care means that MCOs will be the most common provider of services for adults with long-term care needs. The MCO accepts financial risk for meeting the needs of every member paid for through the state capitation rates. Elder adults/adults at risk will often need to enroll in an MCO in order to obtain the long-term services they need.

PUBLIC RESPONSIBILITY:

Statutorily, the county is responsible for serving the general public through provision of core EA/AAR/APS services, including:

- Receipt and evaluation of reports of abuse, neglect or financial exploitation of elder adults/adults at risk,
- Response to or investigation of alleged abuse, neglect or financial exploitation,
- Determination of appropriate actions needed to protect the adult at risk,
- Short-term protective interventions, including petitioning for guardianship and protective placement when needed,
- Court-required reviews, including annual review of court-ordered placements,
- Actions of the Corporation Counsel, Sheriff's Department, Public Health Department, etc. that relate to EA/AAR/APS responsibilities,
- Formation and maintenance of an Interdisciplinary Team (I-Team) to address cases or process issues related to adults at risk.

Note: I-Teams are not statutorily required; rather the I-Teams are a condition of funding via state general purpose revenue elder abuse direct services funds. Many counties are adding partners to their I-Teams to address the needs of younger adults at risk.

EA/AAR/APS agencies and their partners in local government are responsible for public health and safety, as well as for protecting the safety and autonomy of all individuals, to the extent possible. This mission may conflict with the mission of the MCO, which is responsible for serving members, not the general population. Governance and staffing of EA/AAR/APS agencies and the MCO need to be clearly differentiated in order to fulfill their responsibilities. The EA/AAR/APS agency must have a good working relationship with the MCO, whose members will likely include elder adults/adults at risk. But the county staff cannot be influenced by the needs of the MCO or its staff.

EA/AAR/APS core service responsibilities, as listed above, also require strong partnerships with the county sheriff's department, the corporation counsel, the court system, public health, aging and disability resource centers, and others. EA/AAR/APS agencies and each of these county departments share the county government role to provide protection and services. The partnerships are strengthened because of the shared governance of these public safety organizations, which are accountable to elected officials.

Examples of shared service requirements include:

- Law enforcement generally serves as the 24-7 backup for elder adults/adults-at-risk reports. Also, law enforcement needs non-business hour contacts to call for cases involving a possible elder adult/adult at risk.
- Legal interventions - guardianships, court ordered services, and protective placements - need to be readily available to EA/AAR/APS workers
- County corporation counsels serve as the lead on all county initiated guardianships, protective placements, and other legal interventions.
- Law enforcement is required to accompany an EA/AAR/APS worker when the worker is unable to gain access or entry into a home to verify abuse, neglect or exploitation.
- In some situations, law enforcement may be needed to protect the safety of the EA/AAR/APS worker.

Wisconsin's Family Care statutes (Section 46.285) recognize the possibility of a conflict of interest between the mission of the Aging and Disability Resource Centers in providing objective options counseling and the managed care organization. Also as required by the federal Centers for Medicare and Medicaid, Aging and Disability Resource Centers must be independent of the managed care organization to limit those conflicts of interest. The separation of the MCO from the EA/AAR/APS agencies is similarly important.

The Family Care benefit offers a rich array of services and supports that may be important to elder adults/adults at risk. The authority and expertise for planning for the safety of individuals at risk as well as the general public is vested in the inter-disciplinary EA/AAR/APS system. Individuals in need of protection and in need of long-term care will likely require the expertise and services of both systems.

The recommendation for keeping EA/AAR/APS functions within the public sector was first advised by a DHFS Long Term Care Redesign Adult Protective Services Committee Report (July 1998). The report stated that "the provision of adult protective services (APS) is currently a function of county government and will remain so in the redesigned system." If a MCO is not a county agency, the provision of APS functions by the MCO would conflict with guiding principles of Family Care that Eligibility and Information and Assistance functions should remain separate from care management.

The experience within the past decade of Family Care pilots and planning still supports that viewpoint. In addition, Wisconsin Administrative Code HFS 10.23 (4) states that "a resource center may provide elder abuse and adult protective services directly, if a county agency, or through cooperation with the local **public** agency or agencies that provide the services." (*emphasis added*)