

INCIDENT REPORT INSTRUCTIONS CIP 1A/1B, CIP II, and COP-W MEDICAID WAIVER PROGRAMS

1. Overview – Why Do We Perform Incident Reporting?

A primary program responsibility in the Medicaid waivers is to assure the health and safety of program participants. The [Wisconsin Department of Health Services](#) (DHS) is required by the Centers for Medicare and Medicaid Services (CMS) to collect data describing how the state fulfills this responsibility. One of the ways this is performed is through Incident Reporting. The Department uses incident reports to gather data for federal reporting and to identify statewide patterns and trends. Local waiver agencies, service providers and guardians/family members have a fundamental role in the collection of report information and in the provision of services to address reported incidents.

The [Medicaid Waiver Manual](#) specifies best practice intended to address this assurance in Chapter IX. Chapter IX describes the requirement that each waiver agency have systems in place to assure that waiver participants are protected from abuse, neglect, financial exploitation and unreasonable confinement or restraint. Chapter IX further describes the manner by which waiver agencies are to report these incidents and instructs them to develop an effective system to respond when these incidents occur. The waiver agency response system is expected to have dedicated staff or agents who will respond to reports, resolve these situations and work to reduce the likelihood of recurrence. The Department expects each waiver agency to develop an internal system of handling incident reports and providing remediation as part of their process to meet Medicaid Waiver Quality Assurance standards.

2. What is Incident Reporting?

Incident reporting is part of a broader incident response process described in Chapter IX of the [Waiver Manual](#). The process begins when the waiver agency, service provider or guardian or family member observes or learns of an event or discovers a situation that conforms to the definition of incident contained in these instructions.

3. Which Waiver Programs Require Incident Reporting?

- a. The Incident Reporting System described herein is to be used in the Community Integration Program 1A/1B (CIP 1A/1B), the Community Integration Program II (CIP II) and the Community Options Program – Waiver (COP-W). The required reporting method is the completion of the Incident Report for CIP 1A/1B, CIP II, and COP-W Medicaid Waiver Programs (Form [F-01596](#)).
- b. CIP 1A/1B Incident Reports must be sent to DHSCBIR@dhs.wisconsin.gov and copied to the Department assigned Area Quality Specialist (AQS).
- c. Incident Reports involving CIP II/COP-W participants must be sent to the assigned QSS at TMG at WaiverQualitySupport@tmgwisconsin.com.

4. Who Must Report Incidents?

All Medicaid waiver agencies, service providers, waiver participants, families and guardians should report any incident involving a Medicaid waiver participant. The local waiver agency is responsible

for determining whether the incident meets the threshold that requires reporting to the Department of Health Services. If so, submitting the actual required form ([F-01596](#)) to the appropriate BMC IR Contact¹ is the responsibility of the local waiver agency staff or persons or agencies designated by the waiver agency, such as contracted support and service coordinators, care managers or service brokers.

- a. **Family members or other interested parties** should report incidents to the designated local waiver agency staff. When a report is made by a family member, guardian or other concerned individual, it is the responsibility of the waiver agency to determine if the incident meets the threshold to be reported to DHS, using the guidelines outlined in this instruction guide. Reports must be submitted by the waiver agency only.
- b. **Entities and individuals providing services** are required to report all incidents to the local waiver agency or their designee. This includes service provider agencies and their staff, as well as individuals who serve as independent, unaffiliated providers (paid by waiver funds or unpaid), and providers under self-directed service plans. The local agency will determine if the reported incident meets the threshold to be reported to DHS. Providers may also be bound by additional reporting requirements under state law or as a condition of licensing or certification.
- c. **The local waiver agency** has the responsibility to accept and respond to incident reports. This is typically assigned to care manager staff. These professional staff often also will be responsible for completing and submitting reports to DHS and for handling reports submitted by the service provider.

IMPORTANT: Reporting incidents under these waiver requirements does not relieve any person or entity of any other applicable reporting obligations under the law.

5. What is the Local Response System?

Each waiver agency – and service provider - is responsible for accepting and responding to all notifications of incidents. As part of the local response system, the waiver agency should designate a manager/supervisor who will serve as the **point of contact** to coordinate incident reporting. Using a single point of contact should help reduce errors and promote reporting consistency. This point person may also serve to oversee the agency's efforts to enhance the overall quality and safety of care that is provided to its participants.

Individual waiver agencies may decide to use a model for organizing this aspect of their response system that most effectively addresses the size, geography, organization or other factors related to that agency. The system must accommodate conventional service planning and self-directed service models.

Upon notification of an incident, the waiver agency or provider must determine:

- What has or may have occurred;
- Whether the waiver participant is in any immediate danger or risk;
- What the most appropriate response should be; and
- Who will respond to remedy the situation.

¹ The term BMC IR Contact refers to the appropriate program contact for Incident Reports. In CIP 1A/1B the BMC IR Contact is the Area Quality Specialist (AQS). In the CIP II/COP-W programs the BMC IR Contact is TMG.

The response by waiver agency staff or a provider must begin with IMMEDIATE steps to eliminate any danger and/or risk, prevent further harm and ensure the participant is safe. This should then be followed by the development of a more permanent resolution to the situation.

When incidents occur, providers and individuals must notify waiver agencies, which in turn must both notify and report the incident to the appropriate BMC IR Contact (the AQS or TMG).

6. What is a Reportable Incident?

Reportable Incidents are defined as actual or alleged events, situations or conditions that pose a significant immediate or ongoing threat or risk to the physical or mental health, safety or well-being of the person, or that put the participant's continued community presence at risk. Reportable incidents may include conditions that are ongoing or immediate in nature or they may include reports/allegations of past events, incidents or acts. **The following incidents must be reported:**

a. Any known or alleged ABUSE of the participant inflicted by others.

ABUSE, as defined by [§ 46.90 \(1\) \(a\)](#), Wis. Stat., means any of the following:

- 1) **Physical Abuse:** the intentional or reckless infliction of bodily harm
- 2) **Emotional Abuse:** language or behavior that serves no legitimate purpose and is intended to be intimidating, humiliating, threatening, frightening or otherwise harassing, and that does or reasonably could intimidate, humiliate, threaten, frighten or otherwise harass the individual to whom the conduct or language is directed.
- 3) **Sexual Abuse:** a violation of criminal assault law, [§ 940.225\(1\), \(2\), \(3\), or \(3m\)](#), Wis. Stats.
- 4) **Treatment Without Consent:** the administration of medication to an individual who has not provided informed consent, or the performance of psychosurgery, electroconvulsive therapy, or experimental research on an individual who has not provided informed consent, with the knowledge that no lawful authority exists for the administration or performance.
- 5) **Unreasonable Confinement or Restraint:** the intentional and unreasonable confinement of an individual in a locked room, involuntary separation of an individual from his/her living area, use on an individual of physical restraining devices, or the provision of unnecessary or excessive medication to an individual. This does not include the use of those methods or devices by entities regulated by the Department if the methods or devices are employed in conformance with state and federal standards governing confinement or restraint.
- 6) **Financial Exploitation:** any of the following:
 - Obtaining an individual's money or property by deceiving or enticing the individual, or by forcing, compelling or coercing the individual to give, sell at less than fair market value or in other ways convey money or property against his or her will without his or her informed consent.
 - Theft, as defined in Wisconsin Statute [§ 943.20](#).
 - The substantial failure or neglect of a fiscal agent to fulfill his or her responsibilities.

- Unauthorized use of an individual's personal identifying information or documents as prohibited in Wisconsin Statute [§ 943.201](#).
- Unauthorized use of an entity's identifying information or documents as prohibited in Wisconsin Statute [§ 943.203](#).
- Forgery, as defined in Wisconsin Statute [§ 943.38](#).
- Financial transaction card crimes, as defined in Wisconsin Statute [§ 943.41](#).

EXAMPLES of abuse may include but are not limited to:

- Hitting, kicking, pinching, cutting or otherwise inflicting bodily harm
- Verbal/emotional threats, harassment, humiliation, bullying/intimidation
- Inappropriate/unwanted sexual contact, sexual exploitation
- Theft of personal property, misuse/misappropriation of participant funds

b. Any known or alleged NEGLECT of the participant inflicted by others.

NEGLECT, as defined in Wisconsin Statute [§ 46.90 \(1\) \(f\)](#), means the failure of a caregiver, as evidenced by an act omission or course of conduct, to endeavor to secure or maintain adequate care, services, or supervision for an individual. This includes food, clothing, shelter, or physical or mental care, or creating risk or danger to the individual's physical or mental health. Neglect does not include a decision not to seek medical attention for an individual, if that decision is consistent with the individual's previously executed declaration or do-not-resuscitate order under Wisconsin Statute [ch. 154](#), a power of attorney for health care under Wisconsin Statute [ch. 155](#), or as otherwise authorized by law.

EXAMPLES of neglect may include but are not limited to:

- Failure of a responsible person to seek prompt and adequate medical care/treatment
- Failure to provide a safe and secure living environment
- Failure to provide adequate nutrition or meet special dietary needs
- Failure to provide adequate supervision/monitoring

c. Any known or alleged occurrence of SELF-NEGLECT.

SELF-NEGLECT, as defined in Wisconsin Statute [§ 46.90 \(1\) \(g\)](#), means a significant danger to an individual's physical or mental health because the individual is responsible for his/her own care but fails to obtain adequate care, including food, shelter, clothing or medical or dental care.

Examples of self-neglect may include but are not limited to:

- Failure to maintain home/apartment in a safe, sanitary condition so as to create a high risk environment which may precipitate loss of the living arrangement (e.g., eviction)
- Failure to follow a treatment or dietary regimen so as to seriously endanger one's health and precipitate hospitalization or placement (voluntary or involuntary).
- Failure to seek care or treatment for a readily recognizable medical condition so as to seriously endanger one's health or well being

d. ALL DEATHS of a waiver participant, excluding any deaths resulting from a known diagnosed disease, health condition, or similar situation ([Wisconsin Statute ch. 979](#)). This includes waiver participants who are on a temporary closure of the waiver program while temporarily in an ineligible setting (e.g., admitted to a nursing home for any reason). This does not replace or relieve the responsibility to meet **ANY** other death reporting requirements.

Examples of reportable deaths include:

- Any death in which there are unexplained, unusual or suspicious circumstances.
- Any death following an accident, whether the injury is or is not the primary cause of death.
- A death that is not expected.
- Any death which occurred due to member abuse, neglect, self-neglect, exploitation, accident, restraint, suicide, medication error, or any suspicious circumstance (e.g., a missing person).

- e. **MISSING PERSON.** This is any **unexpected** instance when a waiver participant visibly or physically wanders away or leaves a home or a community setting for any length of time without prior arrangement or permission. An important exception to note would be when “elopement” is a known risk for the participant and a behavioral support plan is already in place for this situation.
- f. **MISUSE OF AN APPROVED PLAN INVOLVING A RESTRAINT.** This is defined as any use outside the parameters of the approval. Each Restrictive Measure is approved as a specific response, under certain conditions, to a target behavior(s) that is presenting an imminent risk of harm. When use is discovered to go beyond/outside those conditions, it is considered misuse.
- g. **ANY OTHER MISUSE OF A RESTRAINT/RESTRICTIVE MEASURE.** This includes:
- Use of restraints or restrictive measures when **plan approval has NOT been given**
 - The application of restraints in any situation – approved or unapproved – that results in **injury to the participant**

7. What Incidents are NOT Reportable?

Incidents that are NOT reportable to the Department are those that clearly do not fall within the sentinel event categories listed above. The Department expects each local waiver agency will create a means to track and monitor **all incidents**, both those that are reportable to WI DHS and those that are not. Based on the program (CIP1 vs. CIP II/COP W), processes will be developed to periodically review local incident data.

Non-Reportable Incidents include but are not limited to:

- a. **The provision of health care services** made necessary due to a previously known illness or condition. Example: trips to the ER to deal with a serious, known, chronic medical condition such as a seizure disorder or cardiac condition are **NOT reportable incidents**.
- b. **Behavioral intervention:** This refers to an intervention necessary due to a previously known illness or condition. For example, an episode of challenging behavior that is already the subject of the behavioral intervention plan is **NOT a reportable incident**.

Conversely, the unanticipated use of a restraint that **has not been approved** by the Department falls into the area of Abuse and is a reportable incident. **The misuse of an approved restraint is a reportable incident.**

- c. **Not reportable are unexpected visits to the emergency room, hospital or urgent care that result in an admission to the hospital** for any reason to treat injuries or medical conditions that were not previously known and could not be anticipated.

However, trips to the ER/Urgent Care or hospitalizations that occur as a result of alleged/suspected abuse, neglect or the misuse of restraints are REPORTABLE incidents.

- d. **Medication mistakes are NOT reportable**, including missed doses, or **unintentional** overdosing or under dosing (prescription or non-prescription). This includes the unintentional misuse of medications or the use of illicit controlled substances or misuse of alcohol.

INTENTIONAL misuse or misdosing, or withholding of medication by a caregiver is a form of ABUSE and is reportable.

- e. **The initiation of an investigation by law enforcement** authorities is NOT reportable if it is a result of the outlined categories (sentinel events). It is also not reportable upon learning that such an investigation has been ongoing when the investigation involves an event or allegation that involves a waiver participant either as a perpetrator or victim of a crime. Nor is it reportable in the event that calling law enforcement is a component of an approved crisis or treatment plan.
- f. **The actual arrest or incarceration of the waiver participant or of a provider serving a waiver participant.** Provider involvement in criminal activity **not related to the provision of service** and that occurred outside of the person's employment is not a reportable incident, but must be dealt with as a change in the provider qualifications status. **However, those situations where an actual or alleged crime occurred at the time the provider was acting in his/her service role is reportable.**
- g. **The presence of substandard environmental conditions** in a participant's home or a place the individual frequents works or receives services is NOT reportable. Competent persons may choose an unconventional lifestyle or environment.

PLEASE NOTE: A number of the incidents or circumstances described above clearly call for an action or intervention by the responsible agency. While it may be obvious, it bears mention that there are many incidents described as NOT REPORTABLE under these guidelines which must still be promptly addressed to preserve individual health and well-being.

8. What if an Incident Involves Multiple Waiver Participants?

Incident Reporting is always person specific. If an incident involves or affects multiple waiver participants, a separate report must be submitted for **each participant** affected by the incident. For example, if a provider agency discovers money is missing from each participant in a home, a report will need be completed for each participant.

9. How is an Incident Reported?

- a. **NOTIFICATION** refers to *immediate* communication from the waiver agency to the BMC incident reporting contact, when an incident is discovered.
 - 1) For local agencies, "notification" means promptly informing the appropriate **BMC IR Contact** of the basic facts of the incident and how it is being addressed.

- 2) For providers, family members and other interested persons, “notification” involves informing the waiver agency of the incident.

Notification refers to the requirement to make the appropriate BMC IR Contact and/or the local waiver agency **aware** of the incident as quickly as possible. Notification is typically accomplished by phone call or by secure e-mail. Documentation of incident notification should be a case note in the file or log note by both the party making the notification and the party receiving the notification. This date must eventually be reflected on the incident reporting form ([F-01596](#)).

- b. **REPORTING** involves the submission of the incident reporting form (F -01596) by the waiver agency to the BMC IR Contact. **Local agencies must report the incident within THREE BUSINESS DAYS (generally 72 hours) following receipt of notification.** The submission of an initial report to BMC follows notification and must be followed by submission of a completed report, using the incident reporting form. Updated reports may need to be submitted periodically as information is gathered before the event is resolved and “closed” by the local waiver agency.

Providers are expected to report incidents by notifying the local waiver agency. They must furnish the information needed for the required report, but are not required to use the DHS form unless instructed to do so by the agency. Providers should not directly report to DHS unless they function as the waiver agency’s designated local contact. Families and other interested parties are expected and encouraged to report incidents to the designated staff at their waiver agency. Agency staff are required to immediately notify and subsequently report incidents to the appropriate BMC IR contact.

- c. **CLOSURE: All incident reports administratively must be closed.** Closure is accomplished by the submission of an updated incident reporting form with the appropriate fields completed; indicating that the situation has reached a conclusion and no further action relating to the participant is anticipated.

10. In the CIP 1 program, the AQS serves as a resource to waiver agencies and can often serve a liaison function with other units in the Department or state government (e.g., Division of Quality Assurance (DQA)). The AQS may also get involved by assisting with increased on-site short-term monitoring of some situations. Incident follow-up may be completed quickly or may involve a longer period of time if a number of corrective actions must occur. The incident investigation may also lead to follow-up monitoring by both the local agency and the AQS to determine if the situation has stabilized and if plans of correction have been successfully completed.

IMPORTANT REMINDER: Providers, professionals and others may have additional reporting responsibilities to notify other entities as appropriate (e.g., Adult Protective Services, the Division of Quality Assurance, law enforcement). Completing the incident report does not relieve persons from ANY other duties or responsibilities to report.