

# Consumer Directed Services Employer Webinar Abuse, Neglect, and Exploitation

September 25, 2015



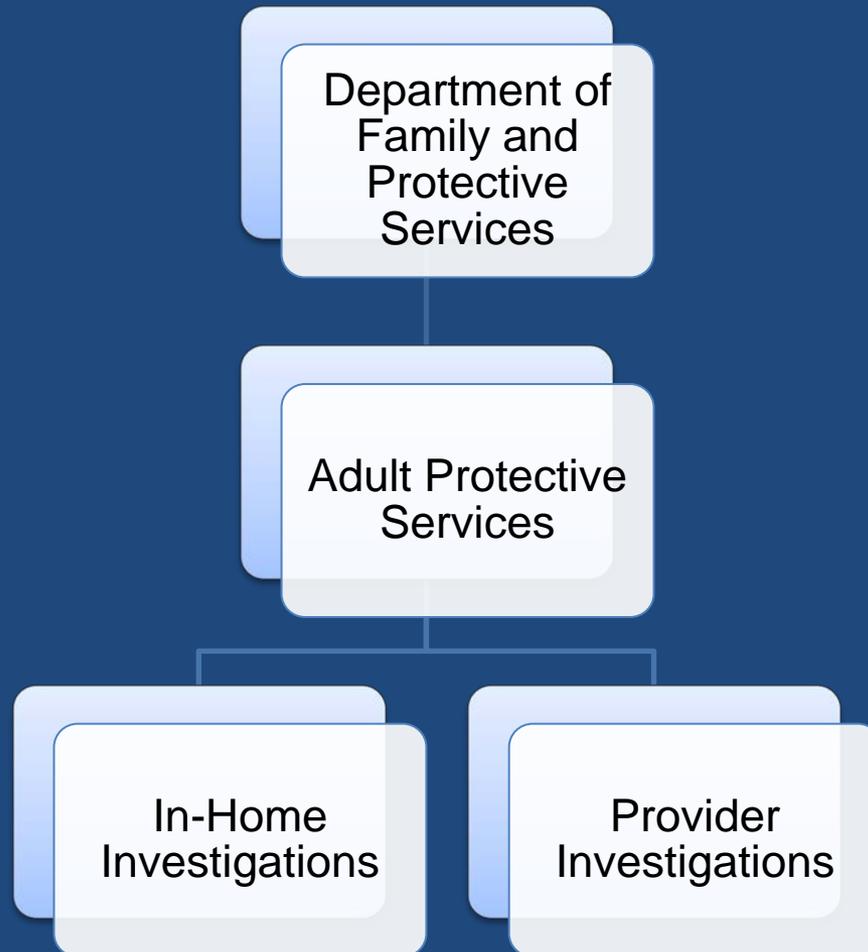
# Speakers

- Michael Roberts, Department of Family and Protective Services, Adult Protective Services
- Elizabeth Jones, Department of Aging and Disability Services, Center for Policy and Innovation

# What Does APS Do?

- Mission:
  - To protect older adults and people with disabilities from abuse, neglect and exploitation (ANE)
- Vision:
  - Protecting with purpose, passion and persistence
- Core Values:
  - We champion the SAFETY and DIGNITY of vulnerable adults
  - We conduct ourselves with INTEGRITY
  - We demonstrate RESPECT for all persons
  - We COLLABORATE to improve outcomes

# How Is APS Organized in Texas?



# Senate Bill 1880 and CDS

- Effective 9/1/15, allegations of ANE committed against individuals using the CDS option will be investigated by the APS Provider Investigations program.
- Before 9/1/15, these allegations were investigated by the APS In-Home program.

# What Does This Mean?

## Staying the same:

- How to report ANE
- APS investigates

## Changing:

- Notification of allegations made to DFPS
- APS will request employer records
- Written statements
- Investigation timeframe
- Investigation report provided at case conclusion

# What is Abuse?

- Physical abuse
  - act or failure to act performed knowingly, recklessly, or intentionally, including incitement to act;
  - act of inappropriate or excessive force or corporal punishment; or
  - use of chemical or bodily restraints not in compliance with federal and state laws and regulations
- Sexual abuse
  - unwanted hugging, kissing, stroking, fondling, indecent exposure, etc. with sexual intent
- Sexual exploitation
  - a pattern of sexual abuse
- Verbal/emotional abuse
  - curse, vilify, or degrade; or
  - threaten with physical or emotional harm

# What is Neglect?

a negligent act or omission by any individual responsible for providing, which caused or may have caused physical or emotional injury or death or which placed a person at risk of physical or emotional injury or death

# What is Exploitation?

the illegal or improper act or process of using a person or the resources of a person for monetary or personal benefit, profit, or gain

# Preventing Abuse, Neglect, and Exploitation

# You can protect yourself by...

- Checking references
- Paying attention to background checks
- Keeping track of money, valuables, and medications
- Being careful with checks and credit cards
- Being careful with the use of your car
- Being careful with house and car keys

# You can protect yourself by...

- Not loaning money to service providers
- Not giving benefits to service providers that are not budgeted

This information can also be found in your  
CDS Employer Manual

<http://www.dads.state.tx.us/services/cds/employer/chapter5.html#recognize>

# How to Recognize ANE

- Physical Signs
  - Injury that has not been cared for properly
  - Injury that is inconsistent with explanation for its cause
  - Pain from touching
  - Cuts, puncture wounds, burns, bruises, welts
  - Dehydration or malnutrition without illness-related cause
  - Poor coloration
  - Sunken eyes or cheeks
  - Inappropriate administration of medication
  - Soiled clothing or bedding
  - Frequent use of hospital or health care/doctor-shopping
  - Lack of necessities such as food, water, or utilities
  - Lack of personal effects, pleasant living environment, personal items
  - Forced isolation

# How to Recognize ANE

- **Behavioral Signs**

- Fear
- Anxiety, agitation
- Anger
- Isolation, withdrawal
- Depression
- Non-responsiveness, resignation, ambivalence
- Contradictory statements, implausible stories
- Hesitation to talk openly
- Confusion or disorientation

# How to Recognize ANE

- **Signs by Caregiver**
  - Prevents contact with friends or family
  - Anger, indifference, aggressive behavior
  - History of substance abuse, mental illness, criminal behavior, or family violence
  - Lack of affection
  - Flirtation or coyness as possible indicator of inappropriate sexual relationship
  - Conflicting accounts of incidents
  - Withholds affection
  - Talks of caregiving as a burden

# How to Recognize ANE

- **Signs of Financial Abuse**

- Frequent expensive gifts from individual to caregiver
- Missing personal belongings, papers, credit cards
- Numerous unpaid bills
- A recent will when individual seems incapable of writing will
- Caregiver's name added to bank account
- Individual unaware of own monthly income
- Individual signs on loan
- Frequent checks made out to "cash"
- Unusual activity in bank account
- Irregularities on tax return
- Individual unaware of reason for appointment with banker or attorney
- Caregiver's refusal to spend money on individual
- Signatures on checks or legal documents that do not resemble individual's

# How to Recognize ANE

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# How to Report ANE

Two options:

1. Call 1-800-252-5400
2. Report online at [www.txabusehotline.org](http://www.txabusehotline.org)

# How to Report Complaints

Two options:

1. Call 1-800-458-9858
2. Email [CRSComplaints@dads.state.tx.us](mailto:CRSComplaints@dads.state.tx.us)

# What Happens After ANE is reported to DFPS?

1. The allegation of ANE is assigned to an APS Provider investigator.
2. The investigator notifies the CDS employer and service coordinator/case manager of the allegation.
3. The investigator conducts the investigation.
4. The investigator provides an investigation report to the CDS employer and service coordinator/case manager.

# Why Does APS Notify?

1. Protection of the alleged victim
2. Preservation of evidence

# What Happens in an Investigation?

- The investigator collects documentary evidence such as service plans, timesheets and training records.
- The investigator collects testimonial evidence through interviews resulting in written statements.
- The investigator observes the environment where the alleged incident took place.
- The investigator analyzes evidence to reach a finding of whether the ANE occurred.
- The investigator issues an investigation report.

# What is Included in an Investigation Report?

- Summary of Evidence
- Findings
- Concerns & Recommendations

# What does the Case Manager/Service Coordinator do with the Report?

- Notifies FMSEA of the allegation
  - FMSEA included if requested by employer and if FMSEA agrees
- Holds service planning team meeting with CDS employer
- If requested by employer, second SPT is held after investigation is complete

# CDS Employer Responsibilities

# As a CDS Employer...

it is your responsibility to:

- ensure protection of the individual receiving services in the event of a DFPS investigation of ANE against a CDS employee, CM/SC or FMSEA representative
  - implement backup plan
- preserve evidence
  - timesheets
  - Training documentation

- train each of your service providers on abuse, neglect, and exploitation (ANE);
- inform each service provider of the Employee Misconduct Registry (EMR);
- document ANE training on Form 1732; and
- document EMR notification on Form 1732-EMR.

# Form 1732

- Form 1732 will be amended soon to more fully document that CDS service providers understand ANE
- DADS will release alert when the form is ready for use along with a date that CDS employers must start using the form
- The revised form will only be required for new employees, not current

# Form 1735

- Form 1735 will be amended soon to document the responsibility CDS employers have for ensuring the protection of individuals receiving services in the event of a DFPS investigation
- CDS employers must resign the revised form at the time of service plan renewal.

# Notification of Investigatory Findings

- CDS employers must use the final investigation report received from APS to complete the Notification of Investigatory Findings and send to the FMSA for release to the alleged perpetrator.
- The CDS employee must provide the Notification of Investigatory Findings to the FMSA within three business days of receipt of the final investigation report.
- The form will be available online.

# Notification of Investigatory Findings

## Notification of Investigatory Findings

[Enter date]

[Enter name]

[Enter street address]

[Enter city, state, ZIP code]

Dear [Enter name],

The Texas Department of Family and Protective Services (DFPS) has completed an investigation into an allegation of [enter abuse/neglect/exploitation] against you, alleged to have occurred on or about [enter date] and perpetrated against [enter name of person served]. The case number for this investigation is [enter DFPS case number]. A (enter Confirmed, Unconfirmed, Inconclusive, Unfounded)) finding has been made against you. A [enter finding] finding means:

[Enter appropriate finding definition]

**Confirmed:** There is a preponderance of credible evidence to support that abuse, neglect, or exploitation occurred.

**Unconfirmed:** There is a preponderance of credible evidence to support that abuse, neglect, or exploitation did not occur.

**Inconclusive:** There is not a preponderance of credible evidence to indicate that abuse, neglect, or exploitation did or did not occur due to lack of witnesses or other available evidence.

**Unfounded:** The evidence gathered indicates that the allegation is spurious or patently without factual basis.

At this time, alleged perpetrators cannot request an appeal of the findings of an investigation conducted by DFPS.

Sincerely,

[enter signature]

# Employer Letter

- Draft CDS Employer letter has been posted for external comment:

<http://www.dads.state.tx.us/providers/communications/alerts/alerts.cfm?alertid=2012>

Thank you!

Questions?