Required Training Regarding Abuse, Neglect, and Exploitation (ANE) Requirements

The Department of Family and Protective Services (DFPS) and HHSC will be hosting a conference call for the STAR+PLUS MCOs to provide some initial training related to the ANE requirements required by Senate Bill (S.B.) 1880 from the 84th legislative session (attachment 1). Each MCO should ensure that their service coordinators, trainers, and managers participate on the call.

The conference call will be held on Tuesday September 8th, 2015, from 9 a.m. until 10 a.m. This initial call will cover the following:

- ANE reporting requirements (attachment 2),
- Sample template letters that may be used to notify the alleged perpetrator of the investigatory findings, and the alleged victim of the investigatory findings and the right to appeal (attachment 3).

To participate in the conference call, please call the following number at 9 a.m. on Tuesday September 8, 2015. **1-877-226-9790 access code: 1101316**

In addition, DFPS and HHSC are planning a face-to-face training that will be held in Austin on October 16, 2015 in the afternoon. The exact time is still being confirmed.

Please save the date for both of these required trainings.

Attachment 1

Guidance for Managed Care Organizations (MCOs) and Contracted Providers: How to report abuse, neglect, and exploitation (ANE) that occurs within the delivery of managed long term services and supports[i]:

MCOs and providers must report any allegation or suspicion of ANE to the appropriate entity. The managed care contracts include MCO and provider responsibilities related to identification and reporting of ANE. The Medicaid/CHIP Division at the Texas Health and Human Services Commission developed this document in order to assist MCOs and providers with reporting ANE. Additional state laws related to MCO and provider requirements continue to apply.

Department of Family and Protective Services (DFPS)[ii]

Report suspicion of abuse, neglect, and exploitation in any of the following situations to DFPS:

1. An adult who is elderly or who has a disability.
2. An adult who is elderly or who has a disability and is receiving services from:
   - a facility (a mental health facility operated by the Department of State Health Services; a facility licensed under Chapter 252, Health and Safety Code; a program providing services to that person by contract with a mental health facility operated by the Department of State Health Services, a state supported living center or the ICF-MR component of the Rio Grande State Center; a program providing services to that person by contract with a state supported living center or the ICF-MR component of the Rio Grande State Center.)
   - a community center, local mental health authority, and local intellectual and developmental disability authority;
   - a person who contracts with a health and human services agency or managed care organization to provide home and community-based services;
   - a person who contracts with a Medicaid managed care organization to provide behavioral health services;
   - a managed care organization;
   - an officer, employee, agent, contractor, or subcontractor of a person or entity listed above; and

- an employee, fiscal agent, case manager, or service coordinator of an individual employer participating in the consumer-directed service option, as defined by Section 531.051, Government Code.

3. A child who is receiving services from:
    - a mental health facility operated by the Department of State Health Services;
    - a facility licensed under Chapter 252, Health and Safety Code;
    - a community center, a local mental health authority, or a local mental retardation authority; or
    - a program providing services to that person by contract with a mental health facility operated by the Department of State Health Services, a community center, a local mental health authority, or a local mental retardation authority;
    - a state supported living center or the ICF-MR component of the Rio Grande State Center;
    - a program providing services to that person by contract with a state supported living center or the ICF-MR component of the Rio Grande State Center; or
    - an officer, employee, agent, contractor, or subcontractor of a home and community support services agency (HCSSA) licensed under Chapter 142, Health and Safety Code.
4. Report suspicion of abuse or neglect of a child to DFPS.

Contact DFPS:

- Call 1-800-252-5400
- Online in non-emergency situations at www.txabusehotline.org

Department of Aging and Disability Services (DADS)[iii]

Report to DADS if the victim is an adult or child who resides in or receives services from:

- Nursing facilities;
- Assisted living facilities;
- Home and Community Support Services Agencies (HCSSAs)[iv] – also required to report any HCSSA allegation to DFPS;
- Adult day care centers; or
- Licensed adult foster care providers

Contact DADS:

- Call 1-800-647-7418

Local Law Enforcement

- If a provider is unable to identify state agency jurisdiction but an instance of ANE appears to have occurred, report to a local law enforcement agency and DFPS.

Failure to Report or False Reporting

- It is a criminal offense if a person fails to report suspected ANE of a person to DFPS, DADS, or a law enforcement agency.[v]
- It is a criminal offense to knowingly or intentionally report false information to DFPS, DADS, or a law enforcement agency regarding ANE.[vi]
- Everyone has an obligation to report suspected ANE against a child, an adult that is elderly, or an adult with a disability to DFPS. This includes ANE committed by a family member, DFPS licensed foster parent or accredited child placing agency foster home, DFPS licensed general residential operation, or at a childcare center.

[i] Managed long-term services and supports (MLTSS) refer to the delivery of long-term services and supports (LTSS) through managed care programs, including community-based and institutional LTSS under the State Plan and home and community based services (HCBS) under the STAR+PLUS Waiver.

[ii] Texas Human Resources Code, Chapter 48; and Texas Family Code, Chapter 261.

[iii] Texas Human Resources Code, Chapter 48; and Texas Health and Safety Code 260A.

[iv] Providers are required to report to DADS and DFPS although DFPS performs the investigation for adults. DADS investigates allegations of ANE for child in HCSSA.

[v] Texas Human Resources Code, Section 48.052; Texas Health & Safety Code, Section 260A.012; and Texas Family Code, Section 261.109.

[vi] Texas Human Resources Code, Sec. 48.053; Texas Health & Safety Code, Section 260A.013; and Texas Family Code, Section 261.107.

Attachment 2

SAMPLE TEMPLATE LETTER TO NOTIFY ALLEGED PERPETRATOR OF INVESTIGATORY FINDINGS

- **The letter must include notification of the APS investigatory finding(s)**
- **If the MCO employee is the alleged perpetrator, the MCO as provider must notify the alleged perpetrator of the APS findings.**
- **If the MCO is not the provider, the MCO must require the provider to notify the alleged perpetrator of the APS findings.**
- **If the MCO contracts with a self-employed direct provider, the MCO is responsible for notifying the alleged perpetrator of the APS findings.**
- **For consumer directed services, the MCO must require its service coordinator to notify the alleged perpetrator of the APS 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]

Attachment 3

SAMPLE TEMPLATE LETTER TO NOTIFY ALLEGED VICTIM OF INVESTIGATORY FINDINGS & RIGHT TO APPEAL

- **The letter must include notification of the APS investigatory finding(s) and provide the alleged victim with details on how to appeal.**
- **If the MCO employee is the alleged perpetrator, the MCO as provider must notify the alleged victim of the APS findings and the victim's right to appeal.**
- **If the MCO is not the provider, the MCO must require the provider to notify the alleged victim of the APS findings and the victim's right to appeal.**
- **If the MCO contracts with a self-employed direct provider, the MCO is responsible for notifying the alleged victim of the APS findings and the victim's right to appeal.**
- **For consumer directed services, the MCO must require its service coordinator to notify the alleged victim of the APS findings and the victim's right to appeal.**

[Enter date]

[Enter name]
[Enter street address]
[Enter city, state, ZIP code]

[Enter salutation],

On [enter date contacted] you were notified of an allegation under investigation by the Texas Department of Family and Protective Services (DFPS). The purpose of this letter is to inform you of the investigator's finding and your right to an appeal of the finding.

This allegation was investigated under [enter DFPS Case Number].The finding of the investigation was [enter finding (confirmed, unconfirmed, inconclusive or unfounded)].

In response to the DFPS finding, [enter name of provider] has taken the following action:
[Enter action]

It is your right to receive a copy of the investigative report. To request a copy of the investigative report, contact DFPS records management at 1-877-764-7230 or by email at Records.Management@DFPS.STATE.TX.US.

It is also your right to appeal the investigative report finding. If you disagree with the finding, there is an appeals process outlined by the Texas Administrative Code, Chapter 40, Part I, Chapter 7, Subchapter K. To appeal the investigative report finding, you must do so within 60 days of [enter date of investigator signature] by writing **or** calling:

Director of Adult Protective Services
Texas Department of Family and Protective Services
P.O. Box 149030, Mail Code E-561
Austin, TX 78714-9030
Phone: 1-888-778-4766

DFPS may accept a request for appeal after 60 calendar days for reasons determined by DFPS to be appropriate, such as difficulty accessing a copy of the investigative report. If you need assistance with obtaining a copy of the report or appealing the decision, please call [enter provider employee name/title] at [enter provider employee's phone number]. [vi]

Sincerely,

[Enter signature]