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Incident Reporting Instructional Guide for 1915(c) HCBS Waiver Services

Overview:
This document provides instructions regarding how direct service providers, case managers, and support brokers/service advisors for participant-directed services (PDS), referred to collectively as "waiver providers," are expected to report critical and non-critical incidents for waiver participants receiving 1915(c) Home and Community-Based Services (HCBS) waiver services. Critical incidents are serious in nature and pose immediate risk to health, safety, or welfare of the waiver participant or others. Non-critical incidents are minor in nature and do not create a serious consequence or risk for waiver participants.

Incident reporting is essential to safeguarding the health, safety, and welfare of 1915(c) HCBS waiver participants. Incident data is used to:

- Identify and resolve incidents to support waiver participant safety
- Mitigate preventable incidents
- Provide insights into trends and problems across Kentucky to reduce risks and improve quality of services

This instructional guide applies to the following 1915(c) HCBS waivers:

- Acquired Brain Injury (ABI)
- Home and Community Based (HCB)
- Model II Waiver (MIIW)
- Acquired Brain Injury Long Term Care (ABI-LTC)
- Michelle P. Waiver (MPW)
- Supports for Community Living (SCL)

All entities or persons that report incidents shall comply with applicable confidentiality laws and Health Insurance Portability and Accountability Act (HIPAA) requirements, regarding the reporting of confidential information and protected health information. In addition, reporting incidents under the provisions of this policy shall not replace the mandatory reporting requirements of Kentucky Revised Statute (KRS) 620.030 or 209.030 with regard to abuse, neglect, or exploitation (ANE).

Direct service providers and case management entities are required to have written policies and procedures regarding incident reporting and management.

Waiver providers must retain all critical and non-critical incident reports and investigation reports for five years. All incident reports and investigation reports must be made available to the waiver

participant, guardian, and/or the PDS representative (applies to PDS only). This information is part of the waiver participant's overall record.

Figure 1 demonstrates the incident management process.

Figure 1: General Process for Incident Reporting

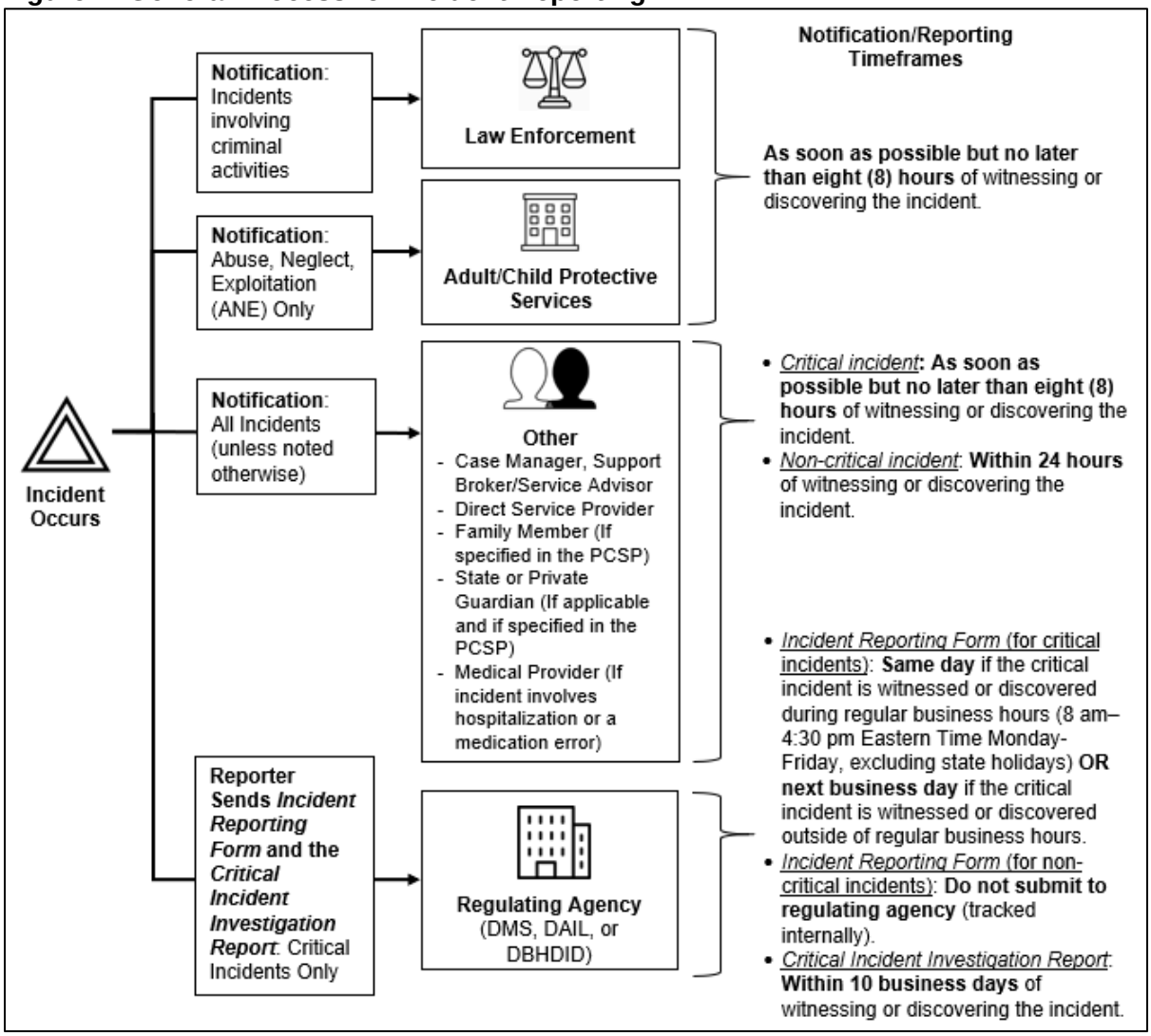

Table of Contents:

- Section 1: Responsibilities
- Section 2: Incident Types and Definitions
- Section 3: Incident Notification Requirements and Timeframes
- Section 4: Incident Reporting Materials and Requirements
- Section 5: Incident Reporting Form Instructions
- Section 6: Critical Incident Investigation Report Instructions
- Appendix A: Abbreviations and Acronyms
- Appendix B: Additional Resources

Section 1: Responsibilities

Figure 2 summarizes the key responsibilities of each party involved in the incident management process.

Figure 2: Responsibility Matrix

Entity	Definition/Responsibilities

Direct Service Provider	*Definition:* A direct service provider is any person, agent, or employee of a provider entity who provides a 1915(c) HCBS waiver service. In the case of subcontractors, the responsibility for reporting incidents rests with the contracted direct service provider.
	
	Key Responsibilities Include:
	• Notify all appropriate parties as described in Section 3 of this guide.
	• For critical incidents, direct service providers submit the *Incident Reporting Form* and *Critical Incident Investigation Report* to the appropriate regulating agency. For non-critical incidents, direct service providers complete the *Incident Reporting Form* and store at the direct service providers' location.
	  ○ The direct service provider is responsible for reporting:
	  ▪ All incidents that occur at the direct service providers' location;
	  ▪ All incidents where the direct service provider is the first person to witness or discover the incident, regardless of location.
	• Investigate the critical incident with involvement of the waiver participant's case manager or support broker/service advisor.
	• Participate in case manager and regulating agency investigations.

Case Manager	*Definition:* An individual who assists waiver participants in gaining access to waiver services and other needed services to support the waiver participant's needs. The case manager manages the overall development, implementation, and monitoring of a waiver participant's person-centered service plan (PCSP).
	
	Key Responsibilities Include:
	• Notify all appropriate parties as described in Section 3 of this guide.
	• For critical incidents, case managers submit the *Incident Reporting Form* and *Critical Incident Investigation Report* to the appropriate regulating agency. For non-critical incidents, case managers complete the *Incident Reporting Form* and store at the case managers' location.
	  ○ The case manager is responsible for reporting incidents if the case manager is the first person to witness or discover the incident AND the incident does not occur at a direct service providers' location.
	• Investigate the critical incident with involvement of the waiver participant's direct service provider.
	• Participate in direct service provider and regulating agency investigations.
	• Depending on the severity and type of critical incident:
	  ○ The case manager may need to revise the PCSP (e.g., the critical incident results in a change to the caretaker or direct service provider).
	  ○ The case manager may need to provide additional support to the waiver participant and document any follow-up visits. For example, the case manager may provide an additional face-to-face visit to ensure continued safety, help a waiver participant to locate a new direct

Entity	Definition/Responsibilities
	service provider, or work with the direct service provider and waiver participant to address an abusive situation. ○ The case manager shall submit materials to the regulating agency for all incidents involving deaths (refer to Section 4 for Mortality Review requirements). • Provide ongoing support and monitoring to the waiver participant.
Support Broker/Service Advisor	*Definition:* An individual designated by DMS to provide training, technical assistance, and support to a waiver participant; and to assist a waiver participant in any aspects of PDS. *Key Responsibilities Include:* • Notify all appropriate parties as described in Section 3 of this guide. • For critical incidents, support brokers/service advisors submit the *Incident Reporting Form* to the appropriate regulating agency. For non-critical incidents, support brokers/service advisors complete the *Incident Reporting Form* and store at the support broker/service advisor's location. ○ The support broker/service advisor is responsible for reporting incidents if the support broker/service advisor is the first person to witness or discover the incident AND the incident does not occur at a direct service providers' location. • At this time, the support broker/service advisor is not responsible for conducting its own investigation; however, the support broker/service advisor is expected to participate in the direct service provider and regulating agency investigations. • Depending on the severity and type of critical incident: ○ The support broker/service advisor may need to revise the PCSP (e.g., the critical incident results in a change to the caretaker or direct service provider). ○ The support broker/service advisor may need to provide additional support to the waiver participant and document any follow-up visits. For example, the support broker/service advisor may provide an additional face-to-face visit to ensure continued safety, help a waiver participant to locate a new direct service provider, or work with the direct service provider and waiver participant to address an abusive situation. ○ The support broker/service advisor is not required to submit mortality review documentation at this time. • Provide ongoing support and monitoring to the waiver participant.
Regulating Agency (DAIL, DBHDID, or DMS)	*Definition:* Kentucky Department for Medicaid Services (DMS), Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities (DBHDID), and Kentucky Department for Aging and Independent Living (DAIL) are the state agencies responsible for overseeing and administering Kentucky's 1915(c) HCBS waiver programs. Figure 7 of this manual provides a breakdown of each 1915(c) HCBS waiver and the responsible regulating agency. *Key Responsibilities Include:* • Log the *Incident Reporting Form* and the *Critical Incident Investigation Report.*

Entity	Definition/Responsibilities
	• Review the *Critical Incident Investigation Report* and determine if additional steps or actions are needed to close the incident. • Coordinate with Adult Protective Services (APS), Child Protective Services (CPS), and law enforcement. • Perform on-site investigations (if applicable). • Issue corrective action plans (if applicable).
Adult Protective Service (APS)	Definition: The Department for Community Based Services (DCBS), APS investigates suspected reports of abuse, neglect, or exploitation as defined in KRS 209.020 (8, 9 and 16) of an adult as defined in KRS 209.020 (4). *Key Responsibilities Include:* • Investigates suspected reports of abuse, neglect, or exploitation that meets acceptance criteria under KRS 209 and offer protective services. • Notifies the appropriate law enforcement agency along with authorized agencies and to the extent practicable coordinates with the appropriate law enforcement and authorized agencies.
Child Protective Service (CPS)	Definition: The Department for Community Based Services (DCBS), CPS investigates all known or suspected incidents of abuse, neglect, or dependency of a child. *Key Responsibilities Include:* • If established criteria is met, CPS will investigate reports of ANE for children below 18 years of age. CPS does not investigate a report if the victim of the report of abuse, neglect, or dependency is age eighteen (18) or older. • Notifies the appropriate law enforcement agency along with authorized agencies and to the extent practicable coordinates with the appropriate law enforcement and authorized agencies.
Law Enforcement	*Definition:* Law enforcement is any lawfully organized investigative agency, sheriff's office, police unit, or police force of federal, state, county, urban-county government, charter county, city, consolidated local government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws. *Key Responsibilities Include:* • Investigate incidents that involve a criminal act and coordinate with the appropriate regulating agency, APS, and/or CPS.

Section 2: Incident Types and Definitions

Critical incidents are serious in nature and pose immediate risk to health, safety, or welfare of the waiver participant or others. Figure 3 identifies the types of *critical* incidents that must be reported to all respective parties.

Non-critical incidents are minor in nature and do not create a serious consequence or risk for waiver participants. Figure 4 identifies the types of *non-critical* incidents that must be reported to all respective parties.

These listings are not exhaustive; therefore, the reporter should use his or her judgement as to whether the incident requires completion of an *Incident Reporting Form*. For instances involving multiple incidents, reporters should submit one *Incident Reporting Form* and select the relevant incidents. For example, if a waiver participant visits the emergency room and the visit results in an unscheduled hospital admission, the reporter would select both "Emergency Room or Emergency Department Visit" and "Unplanned Hospital Admission."

Figure 3: Critical Incident Types and Definitions

Critical Incident Type	Definition

Suspected Abuse	As defined in KRS 209.020, abuse means "the infliction of injury, sexual abuse, unreasonable confinement, intimidation, or punishment that results in physical pain or injury, including mental injury."
	
	As defined in KRS 600.020, "'abused or neglected child' means a child whose health or welfare is harmed or threatened with harm…" Refer to the KRS for additional information.
	
	Examples include, but are not limited to:
	• *Physical Abuse*: The infliction of injury or punishment that results in physical pain or injury
	  ○ Hitting, smacking, slapping, punching, pinching, scratching, biting, kicking resulting in visible injury (redness, swelling, bruising)
	  ○ Physical restraint
	• *Sexual Abuse*:
	  ○ Unwanted touching
	  ○ Fondling
	  ○ Sexual threats
	  ○ Sexually inappropriate remarks
	  ○ Any other sexual activity when the waiver participant is unable to understand, unwilling to consent, threatened or physically forced to engage in the sexual activity
	• *Mental Abuse*: Verbal, written or gestured communications that demean or could reasonably be expected to cause shame, ridicule, humiliation, or emotional distress to a waiver participant
	  ○ Yelling or swearing
	  ○ Name calling, insults, mocking
	  ○ Threats, intimidation
	  ○ Isolating
	  ○ Humiliating

Critical Incident Type	Definition
	Peer-to-peer aggression should be reported as "suspected abuse" if physical or mental abuse is involved. For instances of peer-to-peer aggression where both parties are waiver participants, waiver providers must complete two *Incident Reporting Forms*, one for the waiver participant who is the victim and one for the waiver participant who is the aggressor. **Refer to KRS 600.020 for specific "abused child" examples.**

Suspected Neglect	As defined in KRS 209.020, neglect means "a situation in which an adult is unable to perform or obtain for himself or herself the goods or services that are necessary to maintain his or her health or welfare, or the deprivation of services by a caretaker that are necessary to maintain the health and welfare of an adult."
	
	As defined in KRS 600.020, "'abused or neglected child' means a child whose health or welfare is harmed or threatened with harm…"
	
	Examples include, but are not limited to:
	• *Neglect*: The intentional or unintentional failure of a caretaker to provide:
	  ○ Food
	  ○ Shelter
	  ○ Living conditions
	  ○ Clothing
	  ○ Medical services
	  ○ Supervision
	• *Self-Neglect*:
	  ○ Hoarding food or other essential items
	  ○ Not taking necessary medications
	  ○ Refusing to see a doctor for a medical problem
	  ○ Poor personal hygiene that could lead to medical treatment
	  ○ Not dressing for the weather that could lead to medical treatment
	  ○ Not eating or drinking enough that could lead to medical treatment
	
	Refer to KRS 600.020 for specific "neglected child" examples.

Suspected Exploitation	As defined in KRS 209.020, exploitation means "obtaining or using another person's resources, including but not limited to funds, assets, or property, by deception, intimidation, or similar means, with the intent to deprive the person of those resources." **Examples include, but are not limited to:** • Tricking a waiver participant into giving away money • Stealing money or items • Financial fraud, such as forging signatures on checks

Critical Incident Type	Definition
	• Using waiver participant's money without permission • Denying access to his or her own home or money • Forcing waiver participant to sign contracts or other legal documents
Homicidal Ideation	A waiver participant is thinking about, considering, or planning a homicide.
Missing Person	A waiver participant who cannot be located and there is reason to believe the person may be lost or in danger.

Serious Medication Error	Errors in prescribed medication or medication management by waiver providers that result in a significant adverse reaction requiring medical attention in an emergency room, urgent care center, or hospital. For provider assisted medications (e.g., administering or cueing), medication errors only relate to medications included on the Medication Administration Record (MAR).
	
	Examples include, but are not limited to:
	• Whether medication is self-administered or assisted by staff:
	  ○ At a time other than scheduled
	  ○ Not by the prescribed route
	  ○ Wrong medication was given
	  ○ Incorrect dosage is taken

Natural or Expected Death	The permanent suspension of consciousness and the end of life due to natural or expected causes. The cause of death is attributed to a terminal diagnosis or diagnosed disease process where the expected outcome is death. **Examples include, but are not limited to:** • Death of a waiver participant due to an acute or long-standing disease process • Increased susceptibility to death as a result of diabetes, cancer, advanced heart disease, AIDS, serious infection, etc. • Death of a waiver participant who has been receiving hospice care or treatment for end-stage disease
Unnatural or Unexpected Death	The permanent suspension of consciousness and the end of life due to unnatural or unexpected causes. The cause of death is *not* attributed to a terminal diagnosis or diagnosed disease process where the expected outcome is death. **Examples include, but are not limited to:** • Death from suicide, homicide, medical complications, medication errors, an undiagnosed condition, criminal activity, or an accident • Death from a motor vehicle accident • Death that is suspicious due to possible abuse or neglect

Critical Incident Type	Definition
Suicidal Ideation	A waiver participant is thinking about, considering, or planning a suicide. An act of intended violence or injurious behavior towards self, even if the end result does not result in injury.
Unplanned Hospital Admission	Unscheduled admission to a medical hospital not due to planned surgery or the natural course of a chronic illness (such as a terminal illness). This may include use of an emergency room or emergency department which results in admission to a medical hospital.
Event Involving Police/Emergency Personnel Intervention	An incident in which the police or emergency personnel are required to intervene. **Examples include, but are not limited to:** • Crisis intervention involving police or law enforcement • Waiver participant and/or waiver provider arrested for, charged with, or convicted of a crime • Unplanned fire or emergency evacuation • Waiver participant files police report and/or is the victim of a crime
Emergency Room or Emergency Department Visit	Use of emergency medical care due to an emergent episode of an illness or serious medical condition. **Examples include, but are not limited to:** • Use of an urgent care center or other clinic for emergency medical treatment or treatment of a serious medical condition (e.g., stroke, broken bone, lacerations that require stitches, heart attack, etc.) • Use of an emergency room or emergency department
Three or More Non-Critical Incidents of the Same Incident Type in a 90 Calendar Day Period	An occurrence in which a waiver participant has experienced three or more of the same type of non-critical incidents in a 90 calendar day period. **Examples include, but are not limited to:** • Three or more minor injuries, such as falls • Three or more medication errors without serious outcomes Reporting Guidelines: • The waiver provider is only responsible for tracking incident reports that it completes. The waiver provider is not required to track incident reports submitted by other parties. • When reporting this as a critical incident, the reporter must include the *Incident Reporting Forms* from the previous non-critical incidents that occurred within the 90 calendar day period. One or two non-critical incidents within a 90 calendar day period are still considered non-critical incidents, whereas three or more non-critical incidents becomes elevated to a critical incident. After reporting the critical incident, if the waiver participant continues to experience the same non-critical incident within the 90 calendar day period, reporters must send an additional report for each incident.

Critical Incident Type	Definition
Other	Incidents or conditions not directly defined that are serious in nature and pose immediate risk to health, safety, or welfare of the waiver participant or others. **Examples include, but are not limited to:** • Bed bugs if it impedes services to the waiver participant. If the provider agency discovers bed bugs, the provider agency must complete an *Incident Reporting Form* for each waiver participant potentially impacted by the incident. • Lice if it impedes services to the waiver participant.

Figure 4: Non-Critical Incident Types and Definitions

Non-Critical Incident Type	Definition
Minor Injury	Injuries that may be treated on site and/or require a medical intervention. Minor injuries do not pose a risk of potential death, prolonged disability, or permanently diminished quality of life. **Examples include, but are not limited to:** • Falls which require medical intervention. Falls which do not require provider intervention and do not result in injury should not be documented on an *Incident Reporting Form*. • Sunburn requiring no treatment • Injuries such as a scratch which does not break the skin

Medication Error without Serious Outcome	Errors in prescribed medication or medication management by direct service providers that result in no or minimal adverse consequences and require no treatment or intervention other than monitoring or observation. For provider assisted medications (e.g., administering or cueing), medication errors only relate to medications included on the Medication Administration Record (MAR).
	
	Examples include, but are not limited to:
	• Whether medication is self-administered or assisted by staff:
	  ○ At a time other than scheduled
	  ○ Not by the prescribed route
	  ○ Wrong medication was given
	  ○ Incorrect dosage is taken

Medication Refusal	Waiver participant refuses to take prescribed medications or medication managed by direct service providers. Medication refusal only relates to medications included on the Medication Administration Record (MAR). Medication refusal is considered a non-critical incident; however, if medication refusal results in medical attention in an emergency room, urgent care center, or hospital admission, this should be reported as a critical incident to the Regulating Agency.

Incident Types That Do Not Require Reporting:

Events that do not have the potential to impact waiver participants' health, safety, or welfare do NOT need to be reported. Examples include but are not limited to:

- Scheduled medical procedures/surgeries
- Request to change a case manager or request for services to be placed on hold
- Peer to peer interactions that show no observed threat to health, safety, or welfare (e.g. argument over who sits in what chair)
- Lifestyle choices or actions that show no observed impact on health, safety, or welfare (e.g. having a few alcoholic drinks as long as it is not contra-indicated)
- Flu and STDs. Medical providers report flu, sexually transmitted diseases, and other illnesses to local health departments or the Kentucky Department for Public Health in accordance with Kentucky Administrative Regulations (902 KAR 2:020). If the waiver participant is diagnosed with an STD and there is suspected abuse, this should be reported under the incident type "Suspected abuse."

Section 3: Incident Notification Requirements and Timeframes

Any individual who witnesses or discovers an incident should immediately take steps to ensure the waiver participant's health, safety, and welfare, and notify the necessary authorities, including calling law enforcement and reporting any suspected ANE to the DCBS. DCBS is an agency within the Cabinet for Health and Family Services (CHFS) and operates both APS and CPS.

If the incident occurs at a direct service providers' location, the direct service provider (or other designated staff members from the related provider agency) is responsible for notifying the appropriate parties. If the incident does not occur at the direct service providers' location, the first person (direct service provider, case manager, or support broker/service advisor) who witnessed or discovered the incident is responsible for notifying the appropriate parties. The staff member who witnessed or discovered the incident shall report as much information as is known about the incident (e.g., location of incident, parties involved, type of incident, etc.).

A waiver participant has the right to report incidents, participate in interventions, be involved in the incident investigation process, and have an advocate present when interviewed for fact finding activities. If a waiver participant chooses not to report an incident, or declines further intervention, the incident must still be reported. Documentation must be kept indicating that the waiver participant did not wish to report the incident or declined interventions. The reporter should also inform the waiver participant that their services may be in jeopardy if they are putting themselves or others at risk.

Figure 5 includes notification requirements and timeframes for appropriate parties. However, family members, guardian/authorized representative, case manager, support broker/service advisor, or others should *not* be notified if he or she is a suspected perpetrator.

Figure 5: Incident Notification Requirements and Timeframes

Notification To	Timeframe	Approach to Notification
Law Enforcement	Incidents involving criminal activity: As soon as possible but no later than eight (8) hours of witnessing or discovering the incident.	Dial 911 or the local law enforcement number.
DCBS – APS and CPS	Incidents involving ANE: As soon as possible but no later than eight (8) hours of witnessing or discovering the incident.	*24 Hour Toll Free Number*: 1-877-597-2331 *Non-Emergency Web Form:* https://prdweb.chfs.ky.gov/ReportAbuse/ Note: The non-emergency web-based reporting system has been provided to report suspected instances of abuse / neglect which occurred in Kentucky and do not require an emergency response. A situation where a child or adult is at immediate risk of abuse / neglect that could result in death or serious harm is considered an emergency.

Notification To	Timeframe	Approach to Notification
		The online reporting system is only available between the hours of 8:00am-4:30pm EST Monday through Friday. The online reporting system is not monitored after hours, holidays, or weekends. Anyone needing to make a report after 4:30 pm EST or on holidays or weekends should contact 1-877-597-2331. If the situation is a life-threatening emergency call your local law enforcement agency or 911.
Regulating Agency (DMS, DAIL, or DBHDID)	• Critical incident: Within same day if the critical incident is witnessed or discovered during regular business hours (8 am-4:30 pm Eastern Time Monday-Friday, excluding state holidays) OR next business day if the critical incident is witnessed or discovered outside of regular business hours • Non-critical incident: Notification to the regulating agency is not required	Notification to the appropriate regulating agency is completed by submitting the incident materials described in Section 4 of this instructional guide.
Family Member (If specified in the PCSP) For adults, a family member is only notified if the waiver participant has provided consent via their PCSP. For children, a family member is always notified.	• Critical incident: As soon as possible but no later than eight (8) hours of witnessing or discovering the incident. • Non-critical incident: Within 24 hours of witnessing or discovering the incident.	Phone, fax, or email. For notifying family members and state or private guardians, notify using the communication method agreed upon in the PCSP, which may include voicemail or texting. For notifying medical providers, direct service providers, case managers, or support brokers/service advisors, the reporter may leave a detailed voicemail if the individual does not answer and/or it is outside of the individual's business hours. If you do not know the contact information for the waiver participant's family member, medical provider, direct service provider, case manager, support
Medical Provider The medical provider is notified for incidents involving medication errors or hospitalization. The reporter is not		

Notification To	Timeframe	Approach to Notification
required to notify the medical provider for other incident types; however, the reporter should use his or her judgement as to whether the medical provider is notified.		broker/service advisor, or if the waiver participant has a state or private guardian, contact the appropriate regulating agency.
Direct Service Provider		
Case Manager or Support Broker/Service Advisor		
State or Private Guardian (If applicable and if specified in the PCSP)		

Section 4: Incident Reporting Materials and Requirements

Incident reporting materials and reporting requirements to the appropriate regulating agency is described in Figure 6. The waiver provider who witnessed or discovered the incident is allowed to report the incident to a designated staff member to complete and submit the *Incident Reporting Form*; however, the waiver provider that witnessed or discovered the incident is ultimately responsible for the information included in the *Incident Reporting Form*.

The reporter must also forward copies of the incident reporting forms to the direct service provider, case manager, and/or support broker/service advisor:

- For critical incidents, the reporter must forward a copy of the *Incident Reporting Form* and/or *Critical Incident Investigation Report* to the direct service provider, case manager, and/or support brokers/service advisors after submission to the regulating agency.
- For non-critical incidents, the reporter must forward a copy of the *Incident Reporting Form* to the direct service provider, case manager, and/or support brokers/service advisors after the form is completed.

When sharing the *Incident Reporting Form* and/or *Critical Incident Investigation Report*, identifying information for other waiver participants must be redacted.

Figure 6: Incident Materials and Requirements Submitted to the Regulating Agency

Material	Requirements

Incident Reporting Form	• *Description:* The *Incident Reporting Form* is used to report critical incidents to the regulating agency and capture non-critical incidents for the waiver providers' internal incident tracking. This form captures details of the incident and relevant information pertaining to the waiver participant, reporter, alleged perpetrator, and witnesses.
	• *Key Points*:
	  ○ One form may be used to record multiple incident types if they relate to the same overall incident. If there are two distinctly separate incidents, two forms must be completed.
	  ○ When an incident involves more than one waiver participant, an incident report must be completed for each waiver participant.
	• *Responsibility for Completing the Form:*
	  ○ If the incident occurs at a direct service providers' location, the direct service provider is responsible for completing the *Incident Reporting Form*.
	  ▪ If the case manager or support broker/service advisor later discovers the incident (not from the direct service provider), the case manager or support broker/service advisor should follow-up with the direct service provider to complete the *Incident Reporting Form*.
	  ○ If the incident does <u>not</u> occur at a direct service providers' location, the first person (direct service provider, case manager, or support broker/service advisor) who witnessed or discovered the incident is required to complete the *Incident Reporting Form*.
	  ○ A designated staff member may complete and submit the *Incident Reporting Form*.
	• *Timeframe for Reporting*:

Material	Requirements
	○ Critical Incidents: Same day if the critical incident is witnessed or discovered during regular business hours (8 am-4:30 pm Eastern Time Monday-Friday, excluding state holidays) OR next business day if the critical incident is witnessed or discovered outside of regular business hours. ○ Non-Critical Incidents: Complete the form within 24 hours of witnessing or discovering (excludes state holidays) and track and store at the location of the direct service provider, case manager, or support broker/service advisor who completed the form. The form should not be submitted to the regulating agency; however, the form should be available for audit/review upon request.
Critical Incident Investigation Report	• *Description:* The *Critical Incident Investigation Report* is used to provide additional context regarding the reported critical incident and to describe actions taken to resolve the incident and follow-up measures taken. • *Key Points:* ○ The direct service provider or case manager who submits the *Incident Reporting Form* to the regulating agency is responsible for completing the *Critical Incident Investigation Report*. At this time, the support broker/service advisor is responsible for reporting the incident but is not responsible for conducting its own investigation. ○ The *Critical Incident Investigation Report* is only required for critical incidents. An investigation does not need to be completed for non-critical incidents; however, DMS may request an investigation for patterns of "non-critical" incidents that could lead to implications for health, safety, and/or welfare of waiver participants. • *Timeframe for Reporting:* The direct service provider or case manager must begin its investigation into the critical incident immediately upon witnessing or discovering the incident and submit the *Critical Incident Investigation Report* to the appropriate regulating agency within ten (10) business days. If the investigation is incomplete within 10 business days, the direct service provider or case manager may provide additional documents as an addendum.
Mortality Review Materials (If applicable) – *Note: The regulating agency will request this information from the case manager.*	• *Description*: The case manager shall submit materials to the regulating agency for all incidents involving deaths. ○ Example mortality review materials are described in each waiver's respective KAR reference (except the HCB waiver). KAR references are located in Appendix B on this document. • *Timeframe for Reporting*: If a death occurs, the regulating agency will contact the waiver participant's assigned case manager and request documentation. The assigned case manager will have 14 business days to submit all requested documentation.

The regulating agencies' preference is that forms are typed; however, hand-written forms are accepted as well. If the form is hand-written and additional space is needed, the reporter should provide additional information on a separate attachment.

If updates need to be made to either form after submission to the regulating agency, reporters must maintain document integrity and:

- Clearly identify what is new while maintaining what was originally present (use single strike-through if appropriate)
- Identify who made the modification (use initials)
- Include the date the individual modified the document

The completed reports (with all information viewable) must be provided as required and available upon request. If the PDF form hides text when printed or scanned, the form should be provided and stored electronically. The forms may be signed electronically; however, if the form is not signed electronically, waiver providers should send both the electronic copy and a scanned page of the report which includes the signature and date.

Waiver providers must retain all critical and non-critical incident reports and investigation reports (each with all information viewable) for five years. All incident reports and investigation reports must be made available to the waiver participant, guardian, and/or the PDS representative (applies to PDS only). This information is part of the waiver participant's overall record.

Once the web-based solution is implemented, waiver providers will not be required to store additional electronic or paper copies of the incident reporting and investigation materials; however, all previously stored documents should be retained for five years.

The *Incident Reporting Form* (for critical incidents only) and the *Critical Incident Investigation Report* are submitted to the appropriate regulating agency as described in Figure 7.

Figure 7: Incident Reporting Approach to the Regulating Agency

Waiver	Service Delivery Model	Regulating Agency	Submit to
ABI / ABI-LTC	PDS	DAIL	Email: DAIL.pds@ky.gov
	Traditional (Non-PDS)	DMS	Email your assigned ABI staff member. ABI staff are assigned at time of the waiver providers' certification. If a waiver provider does not know who their contact is, call DMS at 502-564-5198.
HCB	PDS	DAIL	Email: DAIL.pds@ky.gov
	Traditional (Non-PDS)	DAIL	Email: dailHCB@ky.gov
MIIW	All	DMS	Email: angela.robinson@ky.gov
MPW	PDS	DMS	Email: MichelleP.Waiver@ky.gov
	Traditional (Non-PDS)	DBHDID	Email: BHDID.IncidentManagement@ky.gov
SCL	All	DBHDID	Email: BHDID.IncidentManagement@ky.gov

Section 5: Incident Reporting Form Instructions

The *Incident Reporting Form* is used to report and track critical incidents and non-critical incidents. For critical incidents, the reporter is required to submit this form to the appropriate regulating agency. For non-critical incidents, the reporter is required to track and store at the location of the waiver provider who completed the form. Non-critical incident forms should not be submitted to the regulating agency; however, this form should be available for audit/review upon request.

If certain fields are not known, the reporter should mark "unknown" if a box is available or indicate "unknown" in the appropriate field.

The following screenshots were taken directly from the *Incident Reporting Form*.

Waiver Participant Information: Include information of the waiver participant involved in the reported incident. If known, the reporter will identify any illnesses or diagnoses of the waiver participant. The diagnosis/illness field relates to the diagnosis/illness that occurred as a result of the incident. Please include a brief answer if known. Do not include ICD-10 codes.

Program: ☐ ABI ☐ ABI-LTC ☐ HCB ☐ MIIW ☐ MPW ☐ SCL
Participant Directed Services? ☐ Yes ☐ No

WAIVER PARTICIPANT INFORMATION

Waiver Participant's First Name: _____ Waiver Participant's Last Name: _____

Date of Birth (MM/DD/YYYY): _____ Social Security #: _____

Medicaid Number: _____

Gender: ☐ Male ☐ Female ☐ Unspecified

Diagnosis/Illnesses (if known): _____

Race or Ethnicity:
☐ American Indian or Alaska Native ☐ Asian
☐ Black or African American ☐ Pacific Islander
☐ White ☐ Hispanic or Latino
☐ Other ☐ Not Known

Reporting Source: Include information regarding the person/entity who witnessed or discovered the incident. The individual who witnessed or discovered the incident is allowed to assign a designated staff member to complete and submit the *Incident Reporting Form*; however, the individual that witnessed or discovered the incident is ultimately responsible for the information included in the *Incident Reporting Form*.

REPORTING SOURCE

Reporting Agency: _____ Reporter's Title: _____

Reporter's First Name: _____ Reporter's Last Name: _____

Reporter's Phone: _____ Did the reporter witness the incident? ☐ Yes ☐ No

Incident Types: Mark the incident type(s) associated with the event. The reporter may record multiple incident types if they relate to the same overall incident.

Critical Incidents		Non-Critical Incidents
☐ Suspected Abuse	☐ Serious Medication Error	☐ Minor Injury
☐ Suspected Neglect	☐ Natural or Expected Death	☐ Medication Error without Serious Outcome
☐ Suspected Exploitation	☐ Unnatural or Unexpected Death	☐ Medication Refusal
☐ Homicidal Ideation	☐ Suicidal Ideation	
☐ Missing Person	☐ Unplanned Hospital Admission	
☐ Event Involving Police/ Emergency Personnel Intervention	☐ Emergency Room or Emergency Department Visit	
☐ Three or More Non-Critical Incidents of the Same Incident Type in a 90 Calendar Day Period	☐ Other (describe):	

Incident Information: This section describes other factors from the incident. Field definitions include:

- *Level of Harm or Injury*: This field is used to measure the severity and degree of harm/injury that resulted from the incident. Harm is defined as impairment of structure or function of the body (e.g., suffering, death). Injury is defined as any observable and substantial impairment of a person's physical health requiring medical treatment. Level 1 will be used for incidents that did not involve harm or injury (e.g., a person went missing but returned with no injuries or financial exploitation). Level 2-4 will be used when the incident resulted in harm or injury that led to first aid, hospitalization, or death.
- *Date/Time of Incident*: Defined as the approximate date/time the incident occurred. If the reporter did not observe or witness the incident, the reporter will add the incident date/time based on his or her findings (e.g., discussions with the waiver participant, feedback from other witnesses, or review of other documentation). If the reporter cannot determine the exact incident date/time, the reporter should indicate an approximate date/time and select the checkbox "Date and/or Time of Incident Approximated."
- *Discovery Date/Time*: Defined as the approximate date/time the reporter discovers, or is told, of an incident but was not present or involved.

Level of Harm or Injury to the Waiver Participant: (Choose one)

☐ Level 1: None
☐ Level 2: Injury or harm requiring treatment up to and including first aid
☐ Level 3: Injury or harm requiring medical treatment beyond first aid, injury or harm requiring hospitalization
☐ Level 4: Injury or harm resulting in death

Date of Incident (MM/DD/YY): _____ Discovery Date (MM/DD/YY): _____

Time of Incident (AM/PM): _____ Discovery Time (AM/PM): _____

☐ Date and/or time of incident approximated

Incident Information (continued)**:** This section describes other factors from the incident. Field definitions include:

- *Location Type*: Type of location where the incident occurred. This includes the following sub-categories:
  - *Waiver Participant's Home*: The incident took place at the waiver participant's home.
  - *Community*: The incident took place outside of the waiver participant's home and in a community setting. For example, the "Day program" checkbox will include services related to Adult Day Health Care or Adult Day Training.
  - *Unknown*: Use this field if the incident was not witnessed by the reporter but discovered at a later date and the reporter is unable to determine where the incident occurred. For example, the reporter will check "unknown" if the waiver participant involved in the incident does not remember where the incident took place and there are no other sources of information to verify the incident location.
  - *Other Location*: Other location category not described above.

Location Type:

- ☐ Waiver Participant's Home
  - ☐ Living alone
  - ☐ Living with relatives
  - ☐ Living with unrelated person
  - ☐ Staffed residence
  - ☐ Family home provider
  - ☐ Adult foster care
  - ☐ Group home
- ☐ Community
  - ☐ Day program
  - ☐ Work
  - ☐ Vehicle
- ☐ Unknown
- ☐ Other Location (describe):

Name of Location: _____

Address of Incident: _____

Incident Description: Description should include what happened before, during, and after the incident. Include environmental conditions and any noticeable cues, using observable and measurable terms. If the incident involves another waiver participant, use only their initials to maintain confidentiality. Be as specific as possible, including first and last name(s) of any staff involved and specific dates and times (i.e., avoid using the terms "yesterday", "2 months ago", etc.)

Briefly describe what happened (use the first and last name(s) of any staff involved and include specific dates and times):

Notifications: The reporter will notify all appropriate entities which varies depending on the reported incident type. If the entity was faxed or emailed, identify who the fax or email was addressed to or the fax number/email address in the "Contact Name from the Notified Entity" section. For DCBS notifications, the reporter will identify the Intake ID #, which is provided by a DCBS staff member.

NOTIFICATIONS						
Entity	Contact Name from the Notified Entity	Notification Method			Notification Date and Time	
		Phone	Email/ Electronic	Fax	Date (MM/DD/YY)	Time (AM/PM)
☐ Law Enforcement		☐	N/A	N/A		
☐ DBHDID		N/A	☐	N/A		
☐ DAIL		N/A	☐	N/A		
☐ DMS		N/A	☐	N/A		
☐ Family Member		☐	☐	☐		
☐ State Guardian (GSSW)		☐	☐	☐		
☐ Private Guardian		☐	☐	☐		
☐ Direct Service Provider		☐	☐	☐		
☐ Medical Provider		☐	☐	☐		
☐ Case Manager/Support Broker/Service Advisor		☐	☐	☐		
☐ DCBS (APS/CPS) Intake # provided by DCBS:		☐	☐	N/A		
☐ Other		☐	☐	☐		

Perpetrator: If the incident involves abuse, neglect, or exploitation, include the alleged perpetrator, if known.

- *Alleged Perpetrator:* Person(s) who are suspected, charged, or convicted of being responsible for an incident involving abuse, neglect, or exploitation. If the alleged perpetrator is a waiver participant, use only their initials to maintain confidentiality.

ALLEGED PERPETRATOR

For incidents involving alleged abuse, neglect, or exploitation, please supply the following information if available.

Alleged Perpetrator's Name: _____ Social Security # or other ID (if known): _____

Street Address: _____ City: _____ State: _____

Contact #: _____ Age: _____

Relationship to Impacted Waiver Participant:
☐Relative ☐ Staff ☐Peer ☐Other (please specify): _____

Witnesses: Include any witnesses, if known.

- *Witnesses:* Staff members, case managers, waiver participants, or others who witnessed the alleged incident. If the witness is a waiver participant, use only their initials to maintain confidentiality.

WITNESSES	Witness Name	Address	Contact #	Relationship to Waiver Participant

Risk Mitigation: The reporter will describe what steps he or she has taken to prevent the recurrence of similar incidents, along with other activities that allow direct service providers, case managers, and support brokers/service advisors to be proactive in their responsibilities to reduce the risk of harm to waiver participants and others.

	RISK MITIGATION
1	What is the waiver participant's current status? (Choose one) ☐ Stable with no serious changes noted ☐ Seen by professional and admitted to facility (specify location and date below) ☐ Seen by professional and returned home ☐ Other, briefly describe:
2	Could this incident have been prevented? ☐ Yes ☐ No ☐ Unknown If yes, then how could the incident have been prevented? (Choose one) ☐ Track/monitor medical treatment (ER, doctor, hospital, etc.) to identify trends ☐ Track/monitor previous incidents to identify trends ☐ Modification of person-centered service plan ☐ Change in environmental factors ☐ Other, briefly describe:
3	Identify immediate actions to ensure health, welfare and safety of the waiver participant (Choose all that apply) ☐ Anticipate and observe for advance signs of and triggers for the incident ☐ Agency processes/procedures improvements ☐ Improve communication within the agency and between agencies ☐ Other, briefly describe: ☐ Team meeting

Signature: The reporter, or designated staff member, must sign and date each *Incident Reporting Form*. The reporter may use an e-signature or provide a hard-copy signature. Use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 through KRS 369.120.

To be completed by the individual completing and submitting this form (may be reporter or other designated staff):

Printed Name/Title: _____ Signature: _____ Date (MM/DD/YY): _____

Section 6: Critical Incident Investigation Report Instructions

The *Critical Incident Investigation Report* includes additional information learned about the critical incident and any additional action steps taken beyond those identified in the initial *Incident Reporting Form* to minimize recurrence. This form is only required for *critical* incidents. An investigation does not need to be completed for non-critical incidents; however, DMS may request an investigation for patterns of *non-critical* incidents that could lead to implications for health, safety, and/or welfare of waiver participants.

The direct service provider or case manager must begin its investigation into the critical incident immediately upon witnessing or discovering the incident and submit the *Critical Incident Investigation Report* to the appropriate regulating agency within ten (10) business days. If the investigation is incomplete within 10 business days, the direct service provider or case manager may provide additional documents as an addendum.

The action steps will include actions that have been or will be taken in response to the incident. By identifying the underlying environmental and system factors that have contributed to an incident, the direct service provider or case manager will find out exactly WHAT happened, WHY it happened, and HOW it can be prevented from happening again. The goal is prevention, both at the waiver participant and systems level. An investigation may focus on the following areas:

- *Waiver Participant Review*: Review of the actions, inactions, abilities, needs, or goals of the waiver participant. This may also include a review of environmental circumstances that may have led to the critical incident. A resolution may result in changes to the PCSP or a change in equipment.
- *Staff/System Review*: Review of the actions taken by staff members or the protocols that are in place to support operations. A resolution may result in waiver provider training, increased staff supervision, termination of staff, increased number of staff or hours, change in staff, or updates to policies and procedures.

The following screenshots were taken directly from the *Critical Incident Investigation Report*.

General Incident Information: Include information regarding the waiver participant involved in the critical incident. The waiver participant's name, Medicaid #, and incident/discovery date will tie to the initial *Incident Reporting Form*. Additionally, if the incident was reported to DCBS (APS/CPS), please indicate whether the incident was accepted for investigation. Field definitions include:

- *Does the participant have Rights Restrictions?*: The investigative staff member will mark "yes" if the waiver participant has rights restrictions, regardless of whether the restrictions were related to the incident.
- *Was the incident related to the Rights Restrictions? (if yes, attach Rights Restrictions)*: If the incident was related to the rights restrictions, the investigative staff member will mark "yes" and attach the rights restrictions. If the incident was not related to the rights restrictions, the investigative staff member will mark "no," and does not need to attach the rights restrictions. For example, if a waiver participant is restricted from using knives and an incident is reported for "serious medication error", this field will be marked "no" since the incident did not involve the rights restrictions.
- *Does the participant have a Behavior Support Plan (BSP)?*: The investigative staff member will mark "yes" if the waiver participant has a behavior support plan, regardless of whether the BSP was related to the incident. This is required for waiver participants enrolled in the ABI, ABI-LTC, MPW, or SCL waivers.
- Was *the incident related to the BSP? (if yes, attach BSP):* If the incident was related to the BSP, the investigative staff member will mark "yes" and attach the BSP. If the incident was not related to the BSP, the investigative staff member will mark "no," and does not need to attach the BSP.
- *Did the incident include Restraint?*: If the incident involves mechanical, physical, or chemical restraint, the investigative staff member will mark "yes". The investigative staff member will also note the type of restraint (mechanical, physical, or chemical) and duration (e.g., 15 minutes, 4 hours, etc.).

Waiver Participant's Name: _____ Waiver Participant's Medicaid #: _____

Incident Date (MM/DD/YY): _____ Discovery Date (MM/DD/YY): _____

Time (AM/PM): _____ Time (AM/PM): _____

Waiver: ☐ ABI ☐ ABI-LTC ☐ HCB ☐ MIIW ☐ MPW ☐ SCL

If reported to DCBS (APS/CPS), was the incident accepted for investigation? ☐ Yes ☐ No ☐ Unknown

Recent Medical Concerns:

	Yes	No
-Does the waiver participant have Rights Restrictions?	☐	☐
-Was the incident related to the Rights Restrictions?(if yes, attach Rights Restrictions)	☐	☐
-Does the waiver participant have a Behavior Support Plan (BSP)?	☐	☐
-Was the incident related to the BSP? (if yes, attach BSP)	☐	☐
-Did the incident include Restraint?	☐	☐

- Type: _____
- Duration: _____

Investigation Summary: Describe what steps were taken to investigate the reported incident and the overall findings. The investigation may consist of interviews and document review to resolve an incident.

Investigation Summary / Analysis of Cause

Waiver Participant Review: Describe issues that impact the waiver participant.

Waiver Participant Review
How many times has this kind of incident happened with this waiver participant in the past three months?
What did you do to keep the waiver participant safe and well following the incident?
What are investigating staff's recommendations for preventing future occurrences?
What were the waiver participant's, guardian's, case manager's, and family members' recommendations to prevent the incident from reoccurring or concerns regarding the incident?

Staff/System Review: Identify system issues and changes to prevent incidents from reoccurring. The direct service provider or case manager may implement system changes as a proactive measure. For example, the direct service provider or case manager may need to update existing policies and procedures or provide additional training to staff. The investigating staff member will also indicate who will be responsible for monitoring and ensuring that all proposed changes are implemented. The responsible party may be the investigating staff member, supervisor, or other assigned staff member.

Staff/System Review
How many times has this kind of incident happened in your agency in the past three months?
What policies, procedures, or protocols were reviewed in order to prevent reoccurrence?
After review, what were the agency's findings?
Describe any adjustments to policies, procedures, or protocols. (Include effective date of adjustment.)
Who will be responsible for monitoring adjustments to policies, procedures, or protocols?

Signature: The investigating staff member and supervisor must sign and date each *Critical Incident Investigation Report*. An e-signature or a hard-copy signature may be provided. Use of electronic signatures and documents shall comply with the requirements established in KRS 369.101 through KRS 369.120.

Investigating Staff Name/Title:_____	Supervisor Name:_____
Signature:_____ Date *(MM/DD/YY)*:_____	Signature:_____ Date *(MM/DD/YY)*:_____

Appendix A: Abbreviations and Acronyms

ANE – Abuse, Neglect, or Exploitation

ABI - Acquired Brain Injury

ABI-LTC - Acquired Brain Injury Long Term Care

APS - Adult Protective Service

CPS - Child Protective Service

DCBS - Department for Community Based Services

DMS - Department for Medicaid Services

DBHDID - Department for Behavioral Health, Developmental and Intellectual Disabilities

DAIL – Department for Aging and Independent Living

HCB - Home and Community Based Waiver

HCBS - Home and Community-Based Services

HIPAA - Health Insurance Portability and Accountability Act

KAR – Kentucky Administrative Regulations

KRS - Kentucky Revised Statute

MAR - Medication Administration Record

MPW - Michelle P. Waiver

MIIW - Model II Waiver

PDS – Participant-Directed Services

PCSP - Person-Centered Service Plan

SCL - Supports for Community Living

Appendix B: Additional Resources

KRS – Refer to https://apps.legislature.ky.gov/law/statutes/

1. KRS 620.030. Duty to report dependency, neglect, abuse, or human trafficking -- Husband-wife and professional-client/patient privileges not grounds for refusal to report -- Exceptions -- Penalties.
2. KRS 209.020. Protection of Adults. Definitions for chapter.
3. KRS 600.020. Definitions for KRS Chapters 600 to 645.

KAR – Refer to https://apps.legislature.ky.gov/law/kar/titles.htm

1. 907 KAR 3:090. Acquired brain injury waiver services
2. 907 KAR 3:210. Acquired brain injury long-term care waiver services and reimbursement.
3. 907 KAR 1:835. Michelle P. waiver services and reimbursement.
4. 907 KAR 12:010. New Supports for community living waiver service and coverage policies.
5. 907 KAR 7:010. Home and community based waiver services version 2.
6. 907 KAR 1:595. Model Waiver II service coverage and reimbursement policies and requirements.

Incident Reporting Materials

1. All incident reporting materials (including the *Incident Reporting Instructional Guide*, *Incident Reporting Form*, *Critical Incident Investigation Report*, and educational webinars) are available on Division of Community Alternative's website:

   https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx