

## **Immediate Attention Required**

# Investigations by an ODP-Certified Investigator Required by Chapter 6100: ODP's Expectations and Implementation Strategy ODP Announcement 19-127

### **INTRODUCTION:**

55 Pa.Code Chapter 6100 (Relating to services for individuals with an intellectual disability or autism) sets forth payment, program and operational requirements for providers of services funded by the Office of Developmental Programs (ODP). Per Chapter 6100, providers must report and initiate an investigation of the following incidents, alleged incidents and suspected incidents within 24 hours:

- Death that occurs during the provision of a service.
- Inpatient admission to a hospital as a result of an accidental or unexplained injury or an injury caused by a staff person, another individual or during the use of a restraint.
- Abuse, including abuse to an individual by another individual.
- Neglect.
- Exploitation.
- Injury requiring treatment beyond first aid as a result of an accidental or unexplained injury or an injury caused by a staff person, another individual or during the use of a restraint.
- Theft or misuse of individual funds.
- A violation of individual rights.

Providers' investigations must be conducted by an ODP-certified incident investigator.

Chapter 6100 expands the list of incidents that must be investigated beyond current requirements. Many stakeholders have expressed concern about the potential impact of expanded investigations, especially investigations of accidental injuries and abuse to an individual by another individual. This announcement sets forth ODP's expectations and implementation strategy for Chapter 6100's incident investigation requirements

## DISCUSSION:

ODP expects all providers required to complete incident investigations to fully comply with the requirements of Chapter 6100, including completing investigations of accidental injuries and allegations of abuse to an individual by another individual. Moreover, all investigations must be completed using the process established in ODP's Certified Investigator Certification Course. Failure to adhere to these requirements may result in sanctions up to and including termination of a provider's enrollment with ODP.

ODP recognizes that the expansion of incidents that must be investigated will require significant training, technical assistance, and changes in providers' operations, and has developed an implementation strategy to account for these factors.

### IMPLEMENTATION STRATEGY – ODP-Enrolled Providers<sup>1</sup>

Providers must comply with incident **reporting** requirements for all incidents required by Chapter 6100 within 120 days of publication in the Pennsylvania Bulletin.<sup>2</sup>

Providers must comply with incident **investigation** requirements for the following incidents within 120 days of publication in the *Pennsylvania Bulletin*:

- Death that occurs during the provision of a service.
- Inpatient admission to a hospital as a result of an unexplained injury or an injury caused by a staff person, another individual or during the use of a restraint.
- Abuse, including **sexual abuse**, to an individual by another individual<sup>3</sup>
- Neglect.
- Exploitation.
- Injury requiring treatment beyond first aid as a result unexplained injury or an injury caused by a staff person, another individual or during the use of a restraint.
- Theft or misuse of individual funds.
- A violation of individual rights.

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<sup>1</sup> This section does not apply to Supports Coordination Organizations (SCOs); see next section for SCO requirements.

<sup>2</sup> The incident management requirements provided at 55 Pa.Code Chapter 6000 (Relating to incident management) remain in effect until 120 days after publication of Chapter 6100.

<sup>3</sup> Other types of abuse to an individual by another individual are addressed below.

Providers must comply with incident investigation requirements for the following incidents by January 1, 2021:

- Inpatient admission to a hospital as a result of an accidental injury.
- Injury requiring treatment beyond first aid as a result of an accidental injury.
- Allegations of **any kind of abuse** to an individual by another individual.

Between January 2020 and January 2021, ODP will engage providers in a focused initiative to reduce occurrences of individual to individual abuse in an effort to improve the quality of life experienced by the individuals we support. This initiative will include training and technical assistance related to the administrative review and trend analysis that will be expected for all incidents. During this timeframe providers may choose to investigate both individual to individual abuse and accidental injury. ODP strongly recommends that providers begin to investigate these incidents as soon as possible for quality management purposes.

During the initial implementation of Chapter 6100, ODP intends to use training and technical assistance in response to regulatory noncompliance resulting from unfamiliarity with how to appropriately implement new requirements. Sanctions will be used only in the event of serious or extensive noncompliance.

Beginning in early 2020, ODP will initiate an ongoing training and education program related to incident and risk management as set forth in the regulations with the goal of ensuring standardization of knowledge, concepts, and operational practices relating to these topics. The training and education program will include both basic and advanced material on the Certified Investigator process, completion of the Certified Investigator's Report, the Administrative Review process, and the development of corrective actions as a result of investigation findings.

Additionally, ODP intends to increase the number of Certified Investigator training courses to expand system capacity to complete additional investigations as required by the 6100 regulations.

Providers are expected to take advantage of ODP's training and education program to ensure that they are adequately prepared for the expanded investigation requirements. Additional information about the training and education program will be released prior to its implementation.

Providers are expected to be fully compliant with all incident investigation requirements, including the requirement to investigate accidental injuries or abuse to an individual by another

individual, on and after January 1, 2021. Providers that do not comply with all incident investigation requirements on or after that date may be subject to sanctions regardless of the scope or severity of the noncompliance.

### **IMPLEMENTATION STRATEGY – Supports Coordination Organizations (SCOs)**

Chapter 6100 requires support coordinators, base-funding support coordinators, targeted support managers and support coordinator supervisors to report incidents, alleged incidents and suspected incidents as specified in §§ 6100.401—6100.403 (relating to types of incidents and timelines for reporting; incident investigation; and individual needs), unless the incident was reported and documented by another source.

The above requirements notwithstanding, support coordinators, base-funding support coordinators, targeted support managers and support coordinator supervisors are expected to continue to adhere to 55 Pa.Code § 6000.913 (relating to county mental health/intellectual disability programs) and current ODP guidance relating to same following publication of Chapter 6100. This expectation will remain in place until additional guidance and notice to comply with Chapter 6100 is issued by ODP.

### **FUTURE GUIDANCE**

This announcement presents a concise overview of ODP’s implementation strategy for investigations by an ODP-Certified Investigator. Specific guidance about overall compliance and operationalization with Incident Management requirements, including Enterprise Incident Management (EIM) system changes, will be provided in the forthcoming Incident Management Bulletin and Regulatory Compliance Guides and other announcements.

### **CONTACT:**

Please contact the ODP Regulatory Administration Unit at [RA-PW6100REGADMIN@pa.gov](mailto:RA-PW6100REGADMIN@pa.gov) with any questions about this announcement.