



DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

Don Jordan, Secretary

Aging and Long Term Care

January 29, 2009

Adult Protective Services

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Chairman Bethel and members of the Committee, I am Don Jordan, Secretary of the Kansas Department of Social and Rehabilitation Services. Thank you for the opportunity to appear before you today and provide you information on the Adult Protective Services program.

Social and Rehabilitation Services (SRS) is mandated by statute to:

- provide adult protective services to adults age 18 and older. Protective services as defined by statute include: Taking reports, investigating those reports which meet statutory criteria, evaluating the need for services, assistance in obtaining appropriate social services and assistance in securing legal and medical services. This includes working with the alleged victim, alleged perpetrator(s) and collaterals including other state and private agencies. A revision to the APS statute, effective July 1, 2003, mandates law enforcement officers have the duty to receive and investigate reports of adult abuse, neglect, exploitation, or fiduciary abuse and joint investigations can occur.
- maintain a statewide adult abuse registry. This registry is available to any individual who wishes to learn if his/her name is on the registry or to any agency which provides services to adults age 18 or above. This registry is not subject to open records and does require a signed release of information.

Every action taken by Adult Protective Services must balance the duty to protect the safety of the vulnerable adult with the adult's right to self determination.

Kansas APS Social Workers adhere to the ethical principles and best practice guidelines formalized by NAPSA (National Adult Protective Services Association) that all adults:

- have the right to be safe
- retain all their civil and constitutional rights unless some of these rights have been restricted by court action
- have the right to make decisions that do not conform with societal norms as long as these decisions do not harm others
- are presumed to have decision making capacity unless a court adjudicates otherwise
- have the right to accept or refuse services



Over the last year we have completed 9256 APS investigations and had 2136 confirmed findings in the following areas.

Type	Investigations	Confirmations
Abuse	1486	100
Neglect	1865	133
Self Neglect	3934	1705
Exploitation	1439	136
Fiduciary Abuse	532	62
Total Allegations ¹	9256	2136

The allegations investigated involved 4065 adults age 18 to 59 and 5024 adults age 60 and over. In 840 of the investigations, facility was identified as the individual's residence, while the remaining 8416 were for those in their homes, living with families or other arrangements.

SRS is sometimes called upon to investigate issues of non-payment for residents of long term care facilities. Failure to fulfill a financial obligation, by either the resident or their authorized representative, does not in itself constitute fiduciary abuse or cause for APS involvement. SRS assesses whether the resident's funds have been misappropriated by someone acting on their behalf or determines capacity of the adult to handle the funds. Cases involving documented misappropriation lead to a finding of confirmed fiduciary abuse. Notice of the confirmed finding is sent to the Attorney General's Office and other law enforcement agencies as appropriate, which may choose to pursue criminal action against the perpetrator. While SRS may testify in related court proceedings, we are not involved in funds recovery or related disbursements to those for whom the incurred debt is owed. Several administrative options exist as tools that APS staff or other concerned parties may pursue:

- If the investigation reveals the representative isn't acting appropriately, then we may take steps to remove them from the role of representative. If the person has capacity, we would work with them to identify an alternate representative.
- If a person lacks capacity, we would look at whether a guardian would be appropriate. Persons are presumed to have decision making capacity unless a court adjudicates otherwise.

¹ More than one allegation may be associated with the adult which accounts for the variance in the totals.



- The nursing facility may become the payee for an individual, which enables them to receive partial payment.
- A nursing facility may discharge someone for non-payment. If action is taken to involuntarily discharge someone, then the Ombudsman is notified so appropriate steps are taken to help assure safety of that individual.
- Family members may petition the court to be a guardian/conservator at any time. If SRS is petitioning the court for a guardian/conservator, the length of time varies from one month and up to a year. Factors affecting the length of time may include whether a potential guardian has been identified and whether an evaluation has been done to determine the adult is in need of a guardian.

We also recognize there are concerns in another area regarding facility payments where the payees are not able to pay for services and there appear to be long delays in the Medicaid eligibility process. Some of the delay has been attributable to a few management issues which are being addressed and we will continue to monitor that aspect.

Often delays have been caused by the difficult decisions and the required documentation and verification that the customers must provide. Nursing home residents, their loved ones, and others authorized to act on their behalf, are faced with many decisions when the individual enters the long term care facility. We are now seeing clientele who have accumulated a variety of assets, such as annuities, stocks, life insurance, retirement accounts, real property, intellectual property, or other resources which must be considered or used to meet their long term care needs before becoming eligible for Medicaid. Sources of income can be equally varied and complicated to sort through. When residents choose to access Medicaid as a potential source for payment to the facility, careful review of all assets and income must occur. This review may trigger additional decisions points associated with eligibility caps, transfers of property, divisions of assets, etc. SRS cannot make these decisions on behalf of the resident, nor can we force the individual or their representative to follow through with the Medicaid application process.

Determining Medicaid eligibility for persons in long term care facilities requires coordination from many partners – SRS, KDOA, KHPA, the nursing facility and the customer or the customer's family. We continue to strive toward continuous improvement by identifying systemic issues and potential solutions. One such example is SRS has partnered with KDOA, KHPA, Kansas Health Care Association (KHCA), and Kansas Association of Homes and Services for the Aging (KAHSA) to develop a brochure for families upon entering a nursing facility and a desk aid or worksheet to assist the financial departments of nursing facilities.

This concludes my testimony and I would be glad to answer any questions the Committee may have.