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Elder Abuse & Adult Protective Rights

What Is Elder Abuse?

Adult Protective Services (APS) is responsible for investigating reports of suspected abuse, neglect or exploitation of Ohioans aged 60 and older. APS is part of each Ohio County Department of Job & Family Services (CDJFS). The Ohio Revised Code defines "abuse" as infliction upon an adult by self or others of injury, unreasonable confinement, intimidation or cruel punishment with resulting physical harm, pain, or mental anguish. "Neglect" is defined as the failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services. "Exploitation" means the unlawful or improper act of a caretaker using an adult or an adult's resources for their monetary or personal benefit, profit or gain.

What Are The Indicators Of Abuse Or Exploitation?

Indicators of physical abuse are bodily injuries such as fractures, lacerations abrasions and burns. Sexual abuse indicators are sexually transmitted diseases or pain, itching, bleeding or bruising in the genital area. Psychological abuse indicators are low self-esteem, very anxious or withdrawn, depression or confusion. Financial abuse or exploitation involves the theft or conversation of money or property. Indications of neglect include malnutrition, poor personal hygiene, over-medication and under-medication and when the elder is left alone, deprived of stimulation or affection.

What Causes Elder Abuse?

Societal changes may contribute to the predisposition of some individuals to become abusive towards the elderly. In previous generations extended family members could share the responsibility of caring for the aging. However, increased mobility, strained economic times and a smaller nuclear family have limited familial resources. Most often the responsibility of elder care falls on a select few and is more likely fraught with emotional and economic stress. Another major contributor of abuse may be the declining health of the older person and age-related diseases and medications that may alter the older person's behavior. A variety of these indicators and their intensity may in some cases trigger elderly abuse.

Is There A Typical Victim Or Abuser?

No. Abusers and elder abuse victims fall within all demographic categories. Because older victims usually have fewer support systems and reserves – physical, psychological and economic – the impact of abuse is magnified and a single incident is more likely to trigger a downward spiral leading to loss of independence, serious illness and even death. Recent statistics show that female elders are abused at a higher rate than males and that the older one is the more likely one is to be abused. Of alleged perpetrators, family members were the most common perpetrators of financial exploitation of older adults, followed by neighbors and friends, and home care aides.

What Can Older Persons And Caregivers Do To Prevent Abuse?

Both the older person and the caregiver should plan and encourage time away from each other. The

older person should not rely on the caregiver solely for emotional support and care, but try to maintain a network of family, friends and community relationships. Likewise, the caregiver should plan to spend some of their free time away from the older person. Respite care (temporary help) is vitally important to promote an abusive–free environment. To prevent financial abuse or exploitation, the older person should familiarize themselves with their finances whenever possible. Know what they have and where it is. If not possible, the older person should grant a trusted individual a financial power of attorney to monitor and handle her financial obligations.

When And How Should APS Be Contacted?

If you have reasonable cause to suspect that an older person is being abused, call or write the County APS office where the abuse occurred. To report abuse in Hamilton County, call 421-LIFE (513-421-5433). For other counties call your local CDJFS. For a list of CDJFS phone numbers call 866-635-3748. Your report should include the name, address and approximate age of the adult, the name and address of the adult's caregiver, the nature and extent of the suspected abuse, neglect, or exploitation, and what makes you believe it has occurred.

Additionally, the following categories of professionals are required to report suspected abuse: any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital, any nurse, any employee of an ambulatory health facility, any employee of a home health agency, an adult care facility, a community alternative home, a nursing home, residential care facility, or home for the aging, any senior service provider, any peace officer, coroner, clergyman, any employee of a community mental health facility, and any person engaged in social work or counseling having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the CDJFS. If suspected abuse is reported in good faith, there is immunity from civil or criminal liability and the reporter’s employer cannot retaliate against them.

What Must APS Do After Being Contacted?

APS must investigate “emergency” reports within 24 hours and all other reports within 3 working days. An emergency report is one in which there is a substantial risk of immediate physical harm to an individual or others. The investigator must meet face to face with the abused adult, who is given written notice of the investigation and, when possible, also consult with the person reporting abuse. The investigation results in a written report, which either confirms or denies the need for protective services.

What Protective Services May Be Available Through APS?

If available, APS services may include, but are not limited to, the provision of casework services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services and placement services. They also may include the provision of food, clothing and shelter.

What If The Adult Or Someone Else Denies Or Obstructs Access To The Residence Of The Adult, Or Otherwise Refuses APS Services?

APS can petition Probate Court for a temporary restraining order to prevent interference or obstruction of its investigation by any person, including the abused adult. The court must find (a) that there is reasonable cause to believe the adult is being or has been abused, neglected, or exploited, and (b) that access to the adult's residence has been obstructed. APS can also petition the court to

approve a service plan providing involuntary services. The adult must receive a notice describing his or her rights and the consequences of a court order at least five working days before a hearing on the petition. An indigent adult has the right to a court-appointed attorney. Notice of the hearing must also be sent to the adult's guardian, attorney, caretaker and spouse.

The court must find by clear and convincing evidence that (a) the adult has been abused, neglected, or exploited; (b) the adult is in need of protective services; (c) the adult is incapacitated; and (d) no other person authorized by law is available to give consent. If the court so finds, it must issue an order requiring protective services for up to six months, and it can be reauthorized for up to a year.

Pro Seniors helps older Ohioans solve legal and long-term care problems and fight Medicare fraud. Our Legal Helpline provides free legal information and advice for Ohio residents aged 60 and older.
This fact sheet provides general information, not legal advice. The law is complex and changes frequently. Before you apply this information to a particular situation, call Pro Seniors' free Legal Helpline or consult an attorney in elder law.

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