



**IDENTIFYING AND REPORTING ALLEGATIONS OF MISTREATMENT
and
PROCEDURES FOR CONDUCTING INVESTIGATIONS**

Effective September 2011; Amended February 2001, July 2012, May 2014, June 2018

Policy

People who receive services through Imagine! and its provider network will be afforded the right to humane care and treatment, and to be free from mistreatment, abuse, neglect and exploitation. It is expressly prohibited to mistreat, abuse, neglect or exploit in any form, any person receiving services and supports through Imagine!.

Imagine! will ensure that allegations of mistreatment, including abuse, neglect and exploitation; and other incidents defined as critical by regulatory agencies, are reported and, when required by rule and statute, investigated in accordance with the procedures below.

Imagine!, as the community centered board for Boulder and Broomfield counties, has the responsibility to monitor the health and safety of people with development disabilities receiving services through its provider network.

Definitions

In accordance with Colorado Revised Statutes at 25.5-10-202, the following definitions are used for these procedures:

Mistreated or Mistreatment means:

- Abuse;
- Caretaker Neglect;
- Exploitation;
- An act or omission that threatens the health, safety, or welfare of a person with an intellectual and developmental disability; or

An act or omission that exposes a person with an intellectual or developmental disability to a situation or condition that poses an imminent risk of bodily injury to the person with an intellectual and developmental disability.

"Abuse" means any of the following acts or omissions committed against a person with an intellectual and developmental disability:

- (a) The non-accidental infliction of physical pain or injury, as demonstrated by, but not limited to, substantial or multiple skin bruising, bleeding, malnutrition, dehydration, burns, bone fractures, poisoning, subdural hematoma, soft tissue swelling, or suffocation;
- (b) Confinement or restraint that is unreasonable under generally accepted caretaking standards; or
- (c) Subjection to sexual conduct or contact classified as a crime under the "Colorado Criminal Code", title 18, C.R.S.

"Caretaker" means a person who

- (a) Is responsible for the care of a person with an intellectual and developmental disability as a result of a family or legal relationship;
- (b) Has assumed responsibility for the care of a person with an intellectual and developmental disability; or
- (c) Is paid to provide care, services, or oversight of services to a person with an intellectual and developmental disability.

"Caretaker neglect" means neglect that occurs when adequate food, clothing, shelter, psychological care, physical care, medical care, habilitation, supervision, or other treatment necessary for the health and safety of a person with an intellectual and developmental disability is not secured for a person with an intellectual and developmental disability or is not provided by a caretaker in a timely manner and with the degree of care that a reasonable person in the same situation would exercise, or a caretaker knowingly uses harassment, undue influence, or intimidation to create a hostile or fearful environment for an at-risk adult with an intellectual and developmental disability.

"Exploitation" means an act or omission committed by a person who:

- (a) Uses deception, harassment, intimidation, or undue influence to permanently or temporarily deprive a person with an intellectual and developmental disability of the use, benefit, or possession of anything of value;
- (b) Employs the services of a third party for the profit or advantage of the person or another person to the detriment of the person with an intellectual and developmental disability;
- (c) Forces, compels, coerces, or entices a person with an intellectual and developmental disability to perform services for the profit or advantage of the person or another person against the will of the person with an intellectual and developmental disability; or

- (d) Misuses the property of a person with an intellectual and developmental disability in a manner that adversely affects the person with an intellectual and developmental disability's ability to receive health care or health care benefits or to pay bills for basic needs or obligations.

"**Undue influence**" means the use of influence to take advantage of a person with an intellectual and developmental disability's vulnerable state of mind, neediness, pain, or emotional distress.

Other Related Definitions

Critical Incidents include incidents defined by Health Care Policy and Financing (HCPF), which require reporting to HCPF. In addition to specific incidents of mistreatment as defined above, critical incidents include serious injuries and other medical crises, deaths, property damage or theft, medication management issues, missing persons, criminal activity committed by the person in services, or unsafe housing/displacement.

Occurrences are incidents defined by the Colorado Department of Public Health and Environment (CDPHE) that require occurrence reporting to CDPHE. In addition to specific incidents of mistreatment, abuse, neglect and exploitation; occurrences include serious injuries and other medical crises, medication errors and missing persons. Occurrence reporting is required when individuals participate in services licensed by CDPHE, including group homes and home care services. Guidelines for reporting occurrences are provided in the CDPHE Occurrence Manual.

Training

All Imagine! employees and contract providers for Imagine! will receive, as part of their orientation to Imagine!, training in identifying and reporting suspected mistreatment, including abuse, neglect and exploitation. All employees and contractors will receive periodic updating of their initial training in these areas. All Program Approved Services Agencies (PASAs) and Independent Contractors (ICs) providing services to Imagine! consumers are to be trained in identifying and reporting mistreatment, abuse, neglect and exploitation.

Employees and contractors who have reason to assist consumers with daily physical care/hygiene activities will be alert to evidence of physical abuse, especially for individuals who have been determined to be at risk for such abuse.

Employees and contractors who are in regular contact with consumers will be alert to signs of mistreatment or neglect, such as lack of proper clothing for weather conditions, lack of appropriate medical care or medications for illness/injuries, inadequate nutrition, and sudden changes in behavior.

All Program Approved Services Agencies (PASAs) designated to provide services and supports to Imagine! consumers will have procedures for training, reporting and investigation of allegations of mistreatment, abuse, neglect and exploitation that are in compliance with Health Care Policy and Financing rules. These procedures must include a provision that Imagine! Case Management must be notified, at least verbally; of any allegation within 24 hours of the time the administrator of the PASA receives the report of the allegation. Verbal reports are to be followed by a written incident report.

Employees and contractors of Imagine!, as well as all Program Approved Service Agencies, shall be made aware of the requirements for the reporting of critical incidents, as defined by Health Care Policy and Financing; as well as occurrence reporting, as defined by the Colorado Department of Public Health and Environment and associated with licensing for group homes and home care agency services.

Reporting Mistreatment – Individuals and Guardians

At the annual Service Plan meeting, individuals and/or guardians are provided with information about person's rights, including the Right to Humane Care and Treatment. When reviewing rights with individuals and/or their

guardians, Case Managers will review procedures for reporting mistreatment to the Program Approved Service Agency or the Case Manager.

Monitoring

Imagine! Case Management, as well as Imagine!, direct services will ensure that monitoring is in place to detect instances of mistreatment, abuse, neglect and exploitation. This monitoring will include the review of incident reports, complaints; monitoring of service delivery including face-to-face visits, documentation review, and reports from family members, support staff, or other individuals interacting with consumers. Noted patterns or concerns regarding care and observable changes in behaviors shall be included in the monitoring. Under some circumstances, incident reporting and subsequent investigation may be required as a result of monitoring.

Reporting Procedure - Children

ALL Imagine! employees and contractors who work in programs which serve children are required by law to report incidents of suspected abuse and/or neglect to the appropriate county Department of Human Services (DHS) in the child's county of residence and/or to the appropriate local law enforcement agency. These Imagine! employees and contractors are defined as mandatory reporters in accordance with 19-3-304 C.R.S.

Other individuals who work for or contract with Imagine! are also defined as mandatory reporters, regardless of the program where they work, if they meet the criteria set forth in 19-3-304 C.R.S.; including, but not limited to

- Registered Nurse or Licensed Practical Nurse
- Social worker or worker in any facility or agency licensed under Article 6 of Title 26 C.R.S. – Child Care
- Mental Health Professional
- Psychologist
- Physical Therapist
- Victim's Advocate
- Licensed Professional Counselors
- Licensed marriage and family therapist
- Registered psychotherapists
- Registered dietician

In accordance with statute, at 19-3-304 (3), any other person who may not meet the definitions of mandatory reporter in this above section may report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in child abuse or neglect to the local law enforcement agency or the county department.

Mandatory reporting statute does not limit reporting to children in Imagine!'s services. Mandatory reporters, as defined by profession or work environment, are expected to uphold their obligation to report both in the work environment and in the environments outside Imagine!. If a mandatory report does not involve a child receiving services through Imagine!, procedures regarding informing Imagine! do not apply.

In addition to mandatory reporting laws for children, requirements for reporting are extended to apply to individuals over the age of 18 who report abuse or neglect which occurred during childhood, when the person identified as the suspect or perpetrator may currently be in a position to abuse or neglect another child or is in a position of trust with a child under the age of 18.

When an employee has reason to believe that an incident of abuse and/or neglect has occurred, regardless of the suspected source, the employee will consult with the director or designee of the child's program and will make an immediate report to the county Department of Human Services and/or local law enforcement. The child's Case Manager/Service Coordinator will also be notified if not already directly aware of the incident. The Case Manager/Service Coordinator will help facilitate reporting, when needed. Contractors for Imagine! programs not licensed by the Department of Human Services specific to Child Care and Child Welfare, are to notify child's Case Manager/Service Coordinator when a report has been made to the county Department of Human Services and/or local law enforcement. The child's Case Manager/Service Coordinator will then notify program director or designee of the child's program, if applicable.

If the child/family has an on-going caseworker through the county Department of Human Services, the report will be made to that caseworker or, in their absence, to the caseworker's supervisor. A report may also need to be made to the Child Abuse and Neglect Hotline. If neither a caseworker nor a supervisor is available, a report will be made to the Child Abuse and Neglect Hotline at the county DHS office. If the child/family has had no previous, on-going involvement with the county Department of Human Services, the report will be made to the Child Abuse and Neglect Hotline at the county DHS office.

Procedural protocols specific to Child Care and Child Welfare services provided through Imagine! are to be followed in all instances of suspected abuse and/or neglect. These protocols are set forth in the Innovations for Children foster care handbook and in the Out & About procedural manual in compliance with licensing regulation.

The employee/contractor, who originally suspected abuse or neglect, will ensure that an incident report is completed within 24 hours of the initial verbal report. The incident report will include all items specified under *Imagine! Policy and Procedures: Incident Reporting* and will be routed to the children's program supervisor, Case Manager/Service Coordinator, Case Management supervisor and the Director of Client Relations.

If the child's services are funded by the HCBS Children's Extensive Services waiver, and the incident meets critical incident criteria, Imagine! will report the incident to HCFP.

The Case Manager/Service Coordinator, in consultation with the county Department of Human Services caseworker to whom the abuse and/or neglect report is made, will determine if the child's parents/guardian will be informed of the report. When the allegation is against the parents/guardian, they will not be informed until legal reporting requirements have been completed, if deemed appropriate.

When the allegation of mistreatment, abuse, neglect or exploitation is made against an Imagine! employee or a party other than the parents/guardian of the child, the parents/guardian will be informed of the incident and of the steps being taken to investigate the incident.

The child's Case Manager/Service Coordinator, in concert with the child's program when applicable, will ensure ongoing communication with the county Department of Human Services and document communications and any follow-up completed. Documentation will be requested from the county Department of Human Services and will be included in an administrative record for the incident as defined below.

If a report is made to local law enforcement or county of human services for a child who is not receiving Imagine! services, protocols of the entity reported to shall be followed.

Reporting Procedure – Adults

An employee or contractor who has reason to suspect mistreatment, abuse, neglect or exploitation of an adult receiving services and supports through Imagine! or a provider within the Imagine! network, will make an immediate report, upon discovery, to the Director, or designee, of the program where the consumer is provided services. The Director, or designee will inform the Case Manager and Case Management Supervisor with a written incident report, within twenty-four hours.

Mandatory reporting laws for children apply to adults when an individual over the age of 18 reports abuse or neglect, which occurred during childhood, when a known suspect or perpetrator may be in a position to abuse or neglect another child or is in a position of trust with a child under the age of 18. Procedures delineated in the *Reporting Procedure – Children*, are to be followed under these circumstances.

Effective July 1, 2016, in accordance with 18-6.5-102 C.R.S., Imagine! employees and providers who observe the mistreatment of an at-risk adult (a person over the age of 18 determined eligible for intellectual and developmental services) or who has reasonable cause to believe an at-risk adult has mistreated or is at imminent risk of mistreatment, are required by law to report incidents to a law enforcement agency not more than twenty-four hours after making the observation or discovery. The law enforcement agency will provide notice to the county department where the at-risk adult lives, and the district attorney's office of the location where the mistreatment occurred.

The Case Management Supervisor and/or Case Manager will ensure that the incident is documented according to Imagine! incident reporting policies and the *Imagine! Policy and Procedures: Incident Reporting*. The incident report will be completed within 24 hours after the incident.

Depending on the severity and nature of the suspected mistreatment, the information the consumer is able to provide and the suspected source of the mistreatment, a report will be made to the local law enforcement agency and/or Adult Protective Services at the appropriate county Department of Human Services. The Case Manager and Case Management Supervisor will coordinate this reporting. Imagine! Case Management and departments will follow the *Imagine! Incident Report Protocol* for reporting.

The designated Case Manager will be responsible for follow-up with the law enforcement agency or Adult Protective Services. It may be necessary to obtain written authorization from the consumer and/or guardian to obtain the results of any investigation conducted outside Imagine!.

When the allegation of mistreatment is against an Imagine! employee or a party other than a family member and/or guardian of the consumer, the parent/guardian, or authorized representative, if designated, will be informed of the incident and of the steps being taken to investigate the incident. Notification will occur within 24 hours.

When the incident meets criteria for a critical incident as defined by HCPF or an occurrence as defined by CDPHE, incident reporting and routing is to follow the *Imagine! Policy and Procedures: Incident Reporting*.

Investigating Mistreatment, Critical Incidents and Occurrences

Suspected incidents of mistreatment require investigation. Investigations are to be completed to ensure the safety of consumers, identify steps to prevent recurrence and respond to requirements from regulatory authorities.

In addition to local law enforcement and the county Department of Human Services, investigations may also be conducted by Imagine! and/or the Program Approved Service Agency (PASA) where the incident occurred.

In accordance with protocols established with the county departments of human services for Boulder and Broomfield counties and Community Centered Boards, coordination of investigations with the departments will occur with allegations of mistreatment, with the leading agency responsible for the investigation contingent upon the setting where the incident occurred and the relationship between the consumer and the alleged offender.

When an issue regarding consumer care has been entered through the Imagine! EthicsPoint reporting system, it will be referred for investigation through the Director of Client Relations. When Imagine! Human Resources has been made aware of an employee issue concerning consumer care and potential allegations of mistreatment, Human Resources will work in conjunction with the Director of Client Relations to ensure that all requirements for reporting, investigating and review are completed as defined by rule and these procedures.

In addition to allegations of mistreatment, some critical incidents and occurrences require investigation. In these instances, Health Care Policy and Financing (HCPF) or Colorado Department of Public Health and Environment (CDPHE) may determine the need for the investigation or request information on an investigation.

Occurrences, which do not meet criteria for mistreatment or critical incidents and do not require investigation per HCPF rules, are to be addressed by the entity responsible for reporting the occurrence to CDPHE. If the reported occurrence also meets criteria for mistreatment, critical incidents or requires investigation per HCPF rule, the investigation shall be coordinated with the Imagine! Case Management Supervisor and the individuals responsible for reporting to the regulatory agencies within Imagine! and will follow the investigative procedures defined below. Coordination will ensure that all requirements of all regulatory agencies are met including timeliness for reporting, follow-up and process for reporting, while ensuring minimum duplication of investigation and undue interference with the investigative process.

Investigative Procedures

Identifying the need for Investigation

The need for investigation may be identified through any process discussed previously or by other means. Case Management Supervisors, in conjunction with Case Managers, will review incidents which may need investigation. When the need for an investigation has been identified by a Program Approved Service Agency, a representative of the PASA will consult with the Imagine! Case Management Supervisor before beginning an investigation to determine the most appropriate entity to complete the investigation.

Conducting the Investigation

Based on initial reports of a critical incident, which may include mistreatment, or other types of incidents defined by Health Care Policy and Financing or the Colorado Department of Public Health and Environment, the Case Management Supervisors will determine the responsible entity to conduct the needed investigation. Determination will be based on the following factors:

- ♦ Severity of the incident
- ♦ If the incident is part of a pattern
- ♦ The Program Approved Service Agency's (PASA) reliability in conducting investigations
- ♦ Ensuring no conflict of interest
- ♦ Need for notification to regulatory agencies, including Health Care Policy and Financing and/or the Colorado Department of Public Health and Environment
- ♦ Intervention by authorities, including the appropriate county Department of Human Services, and/or local law enforcement.

Entities responsible for conducting investigations through Imagine!, its direct services or provider network, will have been trained in conducting investigations.

When an investigation is to be completed by Imagine! or a Program Approved Service Agency, the investigation is to be assigned and completed in a timely fashion. Procedural guidelines outlined in the Division for Intellectual and Developmental Disabilities' ***Investigations Manual*** in conjunction with instructional protocols from investigative training are to be utilized. Investigations conducted by Imagine! will be followed by the Case Management Supervisor to ensure completion, and will be under the oversight of members of the Imagine! Executive Team.

If Imagine! Case Management has determined that an investigation will not be conducted, the Program Approved Service Agency may initiate an investigation of its own. If an investigation is to be completed by the PASA, it will ensure that the investigative report is submitted to the Human Rights Committee for review.

More than one source of investigation may be used. If a criminal or civil investigation is to be conducted by the county Department of Human Services, local law enforcement or the Colorado Department of Public Health and Environment, the Program Approved Service Agency or Imagine! will ensure there is *no interference* with authoritative investigation, unless the investigation is coordinated with Imagine! by the authoritative entity. However, the PASA or Imagine! may review information that may have contribute to the incident, which may include the review of policies and procedures, hiring and training information, Individual (Behavioral) Service and Support Plans, or other general information while the investigation is in process. The Program Approved Service Agency and/or designated Case Manager or Case Management Supervisor will ensure that needed follow-through is completed for the investigation.

When an incident has been determined to potentially put consumers or others at risk, the Program Approved Service Agency will take steps to ensure the safety of consumers. Employees/contractors involved in suspected allegations of mistreatment, abuse, neglect and exploitation should not have direct contact with consumers until an investigation has been completed. The individual's case manager will monitor steps taken by the PASA to ensure the individual's safety. Case Management or the individual's PASA will arrange for victim support, as appropriate and if requested.

All investigation proceedings will ensure the confidentiality of individuals involved, including but not limited to consumers, employees, contractors and family members.

The consumer's designated Case Manager and Case Management Supervisor will be responsible for ensuring closure of the investigation.

Investigative Review

Imagine! conducted investigations will initially be reviewed by Case Management Supervisor(s). The review will be completed prior to a finalized report of findings to determine that all investigative steps have been completed as necessary, that the investigation is free of bias, that the investigative process was completed in a timely manner and information is sufficient to draw a conclusion.

If additional information is required, the Case Management Supervisor may request follow-up by the original investigator or may request that another investigator complete follow-up. When all follow-up has been completed, the Case Management Supervisor will forward the report and supporting documentation to an Imagine! administrator who will review all information pertinent to the investigation and complete a summary of findings/conclusions for the investigation. When the investigation involves an incident of suspected mistreatment, the administrative reviewer will determine, based on evidence provided, whether or not the allegation can be substantiated.

All investigations completed by Imagine! investigators will additionally be reviewed at the executive level of Imagine!. The executive level review will be completed by an individual who was not directly involved in conducting the investigation or the administrative review.

When the investigation involves consumers who are served directly by Imagine!, and when related to a critical incident reportable to Health Care Policy and Financing (HCPF), the administrative reviewer will ensure that the Services Committee of the Imagine! Board of Directors is made aware of the incident and findings to be reported to HCPF.

Additional due diligence will be given to protect confidentiality and privacy when an incident involves a disclosure of sexual assault and when reporting and reviewing investigations at multiple levels.

Following administrative, executive and Services Committee reviews, if applicable, investigative reports will be submitted for review by the Human Rights Committee (HRC). Review and recommendations by the Human Rights Committee will be provided to the Program Approved Service Agency, the consumer's parent/guardian if applicable, and the designated Case Manager/Service Coordinator.

The investigative summary report and administrative summary reports will be provided to the Program Approved Service Agency(s) directly involved in the incident, to be maintained in the PASA's administrative record. A copy of the administrative summary report will be forwarded to the consumer's case manager. When the investigation relates to a critical incident reported to HCPF, the investigative and administrative summary reports will be forwarded to Imagine! critical incident staff responsible for reporting critical incident follow-up to HCPF.

Appropriate actions will be taken by a PASA or Imagine! when an allegation against an employee or contractor is substantiated. The results of the investigation and related actions are to be recorded, with the employee's or contractor's knowledge, in the employee's personnel or contractor's record.

Investigative Records

Investigations conducted by Imagine! will be maintained in an administrative record as defined by regulation. Administrative records will be maintained for a minimum of seven years (ten years if the consumer resides in a group home) separately from the consumer's main record.

The administrative record will include:

- ♦ The incident report and preliminary results of the investigation,
- ♦ A summary of investigative procedures utilized,
- ♦ Full investigative findings,
- ♦ Actions taken,
- ♦ Human Rights Committee review of the investigative report and the action taken on the recommendations of the committee.

In addition, Imagine! will retain all evidence collected related to investigations including, but not limited to:

- ♦ Photographs,
- ♦ Recorded and written interviews,
- ♦ Documentary evidence including consumer records, releases,
- ♦ Other physical evidence collected to support the investigation.

When an investigation has been completed by an entity other than Imagine!, the Case Management Supervisor will obtain a copy of the investigative findings report completed. The findings report will be submitted for review and recommendations by the Human Rights Committee. Imagine! will maintain the findings report with the originating incident report and Human Rights Committee report in an administrative record. No additional records will be maintained.

Imagine! will maintain a tracking system to complete data and trend analysis relative to investigations completed, investigative outcomes and other related information.

All administrative reviews will be made available to regulatory authorities for review upon request.

Disclosures

The outcome of an investigation, specific to an employee or provider, may be shared with a prospective employees or contractors in accordance with the Imagine! *Disclosure of Investigation Information to Prospective Employees and Providers*.

Assurances

All persons involved in the investigative process are expected to cooperate fully with Imagine!, the county Department of Human Services, local law enforcement, Colorado Department of Public Health and Environment and regulatory authorities.

No individual will be coerced, intimidated, threatened or retaliated against because the individual, in good faith, makes a report of suspected mistreatment, abuse, neglect or exploitation or assists or participates in any manner in an investigation of such allegation in accordance with Health Care Policy and Financing rules.

These procedures are not intended to supersede requirements for reporting and investigating as set forth by regulatory authorities.