

FOOTHILLS GATEWAY, INC.

Mistreatment

POLICY:

Foothills Gateway, Inc. will not tolerate the Mistreatment, Abuse, Neglect, and/or Exploitation of any person receiving services by any other person.

PROCEDURE:

Definitions:

“Mistreated” or “Mistreatment” means:

A. Abuse, any of the following acts or omissions committed against a person with an intellectual or developmental disability:

- 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;
- Confinement or restraint that is unreasonable under generally accepted caretaking standards; or
- The subjection to nonconsensual sexual conduct or contact classified as a crime under the “Colorado Criminal Code,” Title 18, C.R.S.

B. Caretaker 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 or developmental disability (IDD) is not secured for a person with an IDD 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 IDD.

- Notwithstanding the provisions of this subsection, the withholding, withdrawing, or refusing of any medication, any medical procedure or device, or any treatment, including but not limited to resuscitation, cardiac pacing, mechanical ventilation, dialysis, artificial nutrition and hydration, any medication or medical procedure or device, in accordance with any valid medical directive or order, or as described in a palliative plan of care, shall not be deemed caretaker neglect.
- As used in this subsection, “medical directive or order” includes a medical durable power of attorney, a declaration as to medical treatment executed pursuant to section 15-18-108, C.R.S., a medical order for scope of

treatment form executed pursuant to Article 18.7 of Title 15, C.R.S., and a CPR Directive executed pursuant to Article 18.6 of Title 15, C.R.S.

C. Exploitation- an act or omission committed by a person who:

- Uses deception, harassment, intimidation, or undue influence to permanently or temporarily deprive a person with an intellectual or developmental disability of the use, benefit, or possession of anything of value;
- 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 or developmental disability; or
- Forces, compels, coerces, or entices a person with an intellectual or 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 or developmental disability; or
- Misuses the property of a person with an intellectual or developmental disability in a manner that adversely affects the person with an intellectual or developmental disability's ability to receive health care or health care benefits or to pay bills for basic needs or obligations

D. An act or omission that threatens the health, safety, or welfare of a person with an intellectual or developmental disability, or

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

Any allegation involving Foothills Gateway, Inc. (FGI) employee(s), Independent Contractor(s) (ICs), Program Approved Service Agency (PASA) employee(s) or PASA HHPs as perpetrator(s) shall be treated in the same manner as an allegation involving any other person except for the fact that such an allegation may have significant implications for personnel or contractual actions. Upon substantiation of any allegation involving an FGI employee(s), Independent Contractor(s), PASA employee(s) or PASA HHPs, appropriate disciplinary action, contractual action, and/or legal recourse will be undertaken. Additionally, the results of the investigation will be recorded, with the employee's/Independent Contractor's/HHPs knowledge, in the employee's/Independent Contractor's/HHPs file.

For any allegations involving a child under the age of eighteen, the Child Protection Unit at the local Department of Human Services (DHS) is to be called **immediately** in accordance with CRS 19-10-101. **The person who observed the incident or to whom it was reported, or the person designated by the Program Approved Service Agency (PASA) shall make the call and write the incident report.**

Reports of mistreatment of an adult with an intellectual or developmental disability (IDD), must be reported to law enforcement. Law enforcement will provide notification of reports of abuse, caretaker neglect, or exploitation of adults with IDD to APS and the District Attorney

within 24 hours. APS will review and evaluate each report to determine if the at-risk elder meets the statutory requirements of an at-risk adult pursuant to C.R.S. 26-3.1-101.

REPORTING:

- Reports of alleged abuse, neglect, mistreatment or exploitation **should** be made by a person receiving services, parents or guardians, advocates, family members, friends or members of the community who observe or are aware of incidents which appear to constitute these actions.
- FGI employees, Independent Contractors, PASA employees and PASA HHPs **must** immediately report any allegations as previously defined. Failure to report incidents of mistreatment will result in disciplinary action for employees and contract actions for IC's.
- **All** allegations of mistreatment (excluding self-neglect) or **will** be investigated by the Local Police Department, Department Human Services Adult Protection, Program Approved Service Agency or FGI as outlined in the following procedures:
- **If the situation involves an emergency or imminent danger**, 911 will be called immediately by the employee/IC/HHP's directly involved in the situation. The employee/IC/HHP's also will take any additional prompt action to protect the safety of the person receiving services and provide necessary victim supports.
- **If the incident observed/reported occurs after hours or on a weekend**, and there is strong evidence (such as: physical proof, eye witness accounts, etc.) that a mistreatment incident has occurred (self-neglect) or crime has been committed, the person directly involved in the situation will immediately contact local law enforcement, and FGI Administrator on call. The Case Manager will follow up with a documented phone contact to DHS-AP the next business day.
- **If the Mistreatment** (excluding self-neglect) or **incident observed/reported occurs during business hours** the person directly involved in the situation will contact law enforcement, and the Case Manager. The Case Manager will follow-up with a documented phone contact to DHS-AP and depending on the situation the FGI Administrator on call on the same day of business.
- **If the situation seems unclear**, the Case Manager or if Case Manager is not available, the Case Management Directors will be called during business hours and the FGI Administrator on call after business hours for direction.
- Incidents of self-neglect shall be reported to DHS Adult Protection, FGI on-call after hours and FGI Case Manager during FGI business hours.

- The PASA for individuals in the DD waiver will assure that the person is safe during the investigation and inform the Case Manager of any changes in services or enhanced monitoring.
- Victim's assistance will be contacted as needed or appropriate.
- For DD Waiver Services, the PASA Director or designee will be responsible for notifying the authorized representative or legal guardian within 24 hours unless the guardian or authorized representative is the alleged perpetrator. For SLS/CES, the Case Manager will be the responsible party for notification.
- **No alleged perpetrators shall be notified of reports or upcoming investigations**
- Mistreatment incidents will be entered into the FGI web based incident reporting system within 24 hours. All Mistreatment incidents will be marked as critical incidents only for persons in IDD waiver services and state SLS services. These incidents must be entered into the FGI Web based incident reporting system. Incidents must be entered into the system by the next business day after the occurrence or notification of the incident.
- All Mistreatment incidents are considered to be critical incident as defined by HCPF and should be reported accordingly. (DD-waiver, SLS and CES waivers and State SLS)
- For all Mistreatment incidents **reported to law enforcement** and DHS Adult Protection, Adult Protection Supervisor will send a disposition to FGI with outcomes and recommendations of the investigation. (AP has up to 45 days to complete their investigation) No other investigations shall be started until the Law Enforcement Department and DHS -AP have closed their investigation. CM Directors will notify PASAs when internal investigations can be started based on APS dispositions.
- All incidents will also be investigated by a trained investigator from the PASA or FGI Case Management if the incident involves a staff member, contractor, or volunteer as the alleged perpetrator. All other Mistreatment incidents will have a supervisory review/investigation and a summary written with recommendations to avoid future incidents.
- FGI Case Management will have trained investigators available for investigation of incidents where AP request the PASA not do the investigation, or if a family member, advocate or person in services does not want the PASA to investigate. The PASA may also request to have FGI Case Management complete the investigation. These requests must be put in writing to the Comprehensive Case Management Director or the Support Services Case Management Director in the absence of the Comprehensive Case Management Director. The request must indicate why the PASA cannot complete the investigation.
- All investigators will be trained per HCPF rules and regulations.

- If the allegation is for an individual in a group home, the PASA is responsible for occurrence reporting and completing follow-up per Colorado Department of Public Health and Environment (CDPHE).
- DHS-AP can be consulted by the investigator as needed.

ADDRESSING AND FOLLOWING UP ON ALLEGATIONS:

- As requested, all FGI employees, Independent Contractors, PASA employees or PASA HHPs will fully cooperate with Investigators, DHS-AP, and law enforcement officials during the investigation.
- The PASA Directors or designee will assure the completion of the investigation within 10 business days. Extensions may be requested in writing by the investigator to the PASA Director and a copy to the Comprehensive Case Management Director or Support Services Case Management Director in the absence of the Comprehensive Case Management Director. The Case Management Directors for FGI will assure the completion of investigations within 10 business days if FGI Case Management is investigating. The Case Management Directors will inform the PASA of any reason for delay in timelines for incidents being investigated by FGI Case Management.
- The PASA Director will assure that the completed investigative packet is sent to the Comprehensive CM Director. The PASA Director will inform the guardian of the outcome of the investigation. The Comprehensive CM Director will inform the person's Case Manager of the outcome and submit the packet for HRC review.
- The FGI Case Management Investigator will submit all supporting documentation to their supervisor for review and then the Chief Operating Officer (COO) for the Division of Case Management for review and signature. The Comprehensive Case Management Director will review documentation and submit it for HRC review.
- When FGI Case Management completes investigations, the outcome will be give the Case Manager and the PASA Director by the Comprehensive CM Director. The Comprehensive CM Director will also inform the PASA Director of the outcome of the investigation.
- FGI Master Records will **not** be accessed by investigators outside the FGI Agency without prior approval from the individual, legal guardian, parents of a minor, or authorized representative and appropriate releases according to policies and procedures must be obtained.
- Suspensions or reassignments of employees, Independent Contractors, PASA HHPs will be at the discretion of the PASA Director. However, FGI Case Management may recommend the suspension/reassignment of an employee until the investigation is complete if the PASA Director chooses not to.
- No individual will be coerced, intimidated, threatened or retaliated against because the

individual, in good faith, makes a report of suspected Mistreatment or assists or participates in any matter in an investigation of allegations.

- The case, if substantiated by DHS-AP, will be reviewed by the Adult Protection Team (APT). The COO for the Division of Case Management or designee will participate in the local DHS-APT monthly and bring back recommendations to the Investigation Committee.
- The incident and investigation results will be presented to the Human Rights Committee (HRC) by the assigned FGI Case Management Investigator.
- Investigation outcomes and recommendations shall be shared by the PASA or Case Manager with the person, legal guardians, PASAs and other IDT members with appropriate releases.
- Investigation summaries will be written by the PASA or FGI Investigator, and submitted to the HRC Coordinator. All summaries must state if the incident was substantiated, unsubstantiated or inconclusive.
- Investigation summaries will be secured at the PASA and FGI as administrative records. Investigation summaries are not part of the master record and will not be shared by FGI to assure reporting parties and interviews remain confidential.
- Supporting documentation shall include but is not limited to: Incident Report, DHS-AP Report, Police Report if applicable, FGI/PASA Investigation Summary, and the Follow-up Incident Report.
- The Comprehensive Case Management Director will assure that the PASA Director has a copy of the Investigation Summary and follow-up for the PASA Administrative file.
- The HRC will review and forward documentation to the Case Manager and Investigation Committee.

INVESTIGATION COMMITTEE

- The Investigation Committee for the FGI service area shall be comprised of representatives from the Foothills Gateway, Inc. Case Management Division. The Investigation Committee will have the option of requesting that additional committee members be added when additional expertise is required to complete an investigation. The Investigation Committee will have the following responsibilities:
 - Overall responsibility for monitoring incidents and allegations of mistreatment for trends and/or frequency sufficient to warrant further action or investigation.
 - Monitoring that all investigations and recommendations are complete and all appropriate reports placed in FGI's administrative file, the person's master record, and

- sent to the PASA Director for their administrative file.
- Requesting additional follow up as needed.

RECORDS

- All incident reports and investigation findings/summaries shall become a part of the administrative file at FGI including:
 - 1) Copy of the Incident Report/Follow up Incident Report
 - 2) Summary of investigation including:
 - The preliminary results of the investigation
 - Witness statements
 - The investigative finding(s)
 - The actions taken
 - 3) HRC review of the investigative report and the action taken on recommendations made in the report.

The following items will become part of the individual's master record:

- Incident Report excluding reporting parties identification
- HRC-Review and Recommendations Report
- Follow up Incident Report

EMERGENCY/CONTACT PHONE NUMBERS

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| • Emergency | 911 |
| • D.H.S. Adult Protection (HUB) | 498-6995 |
| • D.H.S. Child Protection (HUB) | 498-6995 |
| • D.H.S Adult Protection Fax | 679-4595 |
| • Fort Collins Police (non-emergency) | 221-6540 |
| • Larimer County Sheriff | 498-5100 |
| • Loveland Police (non-emergency) | 667-2151 |
| • Berthoud Police | 532-2611 |
| • Estes Park Police (non-emergency) | 586-4000 |
| • Chief Operating Officer Division of
Case Management | 690-8122 |
| • Comprehensive Case Management Director | 690-8129 |
| • Support Services Case Management Director | 443-2619 |

1/02. . . . 9/17; 10/17; 12/17