

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 should provide notification of reports of abuse, caretaker neglect, or exploitation of adults with IDD to Adult Protective Services (APS) and the District Attorney within 24 hours. APS should also be notified by the reporting

party by calling the DHS HUB. 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 reviewed or 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, eyewitness 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, APS, and send an email or leave a voicemail with the FGI Case Manager.
- **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, APS and the Case Manager. An incident report must also be submitted in the FGI Incident Reporting Database within 24 hours.
- **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. The PASA will complete an incident report in the FGI Incident Reporting Database and email the FGI Case Manager.
- 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 Waiver Services, the reporting 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 Mistreatment incidents reported by the Case Manager, 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 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 an email to FGI twice a month. The email will contain the name of the APS worker if incident was assigned or if the incident was screened out. This information will be sent to the Human Rights Committee Coordinator, and she will forward to the appropriate Case Manager and Case Manager supervisor. The Case Manager will notify the PASA contact of this information and document it in a log note in the BUS.
- All incidents will be investigated by a trained investigator from the PASA or FGI Case Management if the incident involves a staff member, contractor, family caregiver or volunteer as the alleged perpetrator. All other Mistreatment incidents that occur during the PASA services will have a PASA supervisory review/investigation. This will include a summary written with recommendations to avoid future incidents that occur during PASA services. The review/investigation must also include the outcome if the incident is substantiated or unsubstantiated. Mistreatment incidents that do not occur during PASA services will have a Case Management 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).

- APS 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, APS, 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 HRC Coordinator. The PASA Director will inform the guardian of the outcome of the investigation. The HRC Coordinator will inform the person's Case Manager of the outcome and hold 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 HRC Coordinator will hold documentation for HRC review.
- When FGI Case Management completes investigations, the outcome will be given to the Case Manager and the PASA Director by the Comprehensive CM Director.
- 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 APS, will be reviewed by the Adult Protection Team (APT). The COO for the Division of Case Management or designee will participate in the local APT monthly and bring back recommendations to the Investigation Committee.
- 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.
- The incident and investigation results will be presented to the Human Rights Committee.
- Investigations written by the trained PASA staff or FGI Investigator will be submitted to the HRC Coordinator for all allegations involving staff, independent contractor, family caregiver or agency volunteer. The investigator or designee will present the investigation and outcome to HRC.
- All supervisory review/investigations written by the PASA or Case Manager will be submitted to the HRC Coordinator. The Case Manager or PASA who completed the summary will present to the HRC.
- 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 the FGI Case Manager to assure reporting parties and interviews remain confidential.
- Supporting documentation shall include but is not limited to: Incident Report, Police Report if applicable, FGI/PASA Investigation Summary, and the Follow-up Incident Report.
- The HRC Coordinator will assure that the PASA/designee has a copy of all Investigation Summaries done by FGI Case Manager 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:
 - Reviewing all mistreatment incidents and assuring follow up is complete.
 - 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 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. . . . 10/19; 10/20, 12/21