

Policy & Procedure

Policy Title: Client Abuse

Policy Number: 419

Policy:

The policy of AAdvantage Inc./Arc Human Services (AHS) is that we have a zero tolerance for abuse, mistreatment and neglect of any individual. Individuals receiving services at AAdvantage Inc./AHS must not be subjected to abuse by anyone including, but not limited to, all facility staff, consultants, volunteers, friends, family, legal guardians and other individuals.

It is the responsibility of all staff at AAdvantage Inc./AHS to protect, respect, and uphold the basic human rights of the individuals who reside with AAdvantage Inc./AHS. Among these rights are:

- The right to be free from abuse as defined below,
- The right to be free from physical punishment.
- The right to be treated with dignity and respect.

Within the confines of this policy, an abusive act may be defined as an act or an omission, which inflicts injury, unreasonable confinement, intimidation, punishment, mental anguish, sexual abuse, exploitation, or causes physical, psychological pain to an individual, or deprives an individual of their rights.

Any act of abuse or omission as previously defined is absolutely prohibited and is cause for immediate disciplinary action including dismissal and possible criminal prosecution.

Any employee witnessing an act of neglect, physical, or emotional abuse to an individual and fails to report this act to an appropriate supervisor will be considered a participant in the abuse and will be liable for disciplinary action.

- Abuse: Abuse is a deliberate or careless act by a person, including another individual receiving services, which may result in mental or physical harm.
- Misapplication/Unauthorized Use of Restraint (results in injury) – The use of a restraint that does not follow ODP's regulatory requirements, the misapplication of an approved restraint technique, or the use of a restraint that results in an injury requiring treatment beyond first aid. Examples include, but are not limited to, the following, all of which are prohibited:
 - Prone position physical restraints
 - Any physical restraint that inhibits digestion or respiration, inflicts pain, causes embarrassment or humiliation, causes hyperextension of joints, applies pressure on the chest or joints or allows for a free fall to the floor
 - Any physical restraint that is used more than 30 cumulative minutes within a two-hour period
 - Chemical restraints
 - Mechanical restraints
- Misapplication/Unauthorized Use of Restraint (no injury): The use of a restraint that does not follow ODP's regulatory requirements or the misapplication of an approved restraint

Policy & Procedure

technique. Examples include, but are not limited to, the following, all of which are prohibited:

- Prone position physical restraints
 - Any physical restraint that inhibits digestion or respiration, inflicts pain, causes embarrassment or humiliation, causes hyperextension of joints, applies pressure on the chest or joints or allows for a free fall to the floor
 - Any physical restraint that is used more than 30 cumulative minutes within a two-hour period
 - Chemical restraints
 - Mechanical restraints
- Physical: An act which causes or may cause physical injury to an individual, such as striking or hitting. Physical injuries may or may not be present with physical abuse. Allegations of physical acts without obvious signs of injury must be reported. Monitoring or body checks may be necessary to look for signs of injury after initial discovery of the incident. In addition, injuries attributed to a staff person or another individual receiving services that require treatment beyond first aid or an inpatient admission to a hospital are to be reported as abuse. If the incident involved an injury, common examples of situations that may be present with physical abuse include, but are not limited to:
 - A patterned bruise, no matter its size, that is in the shape of an identifiable object such as a belt buckle, shoe, hanger, fingermark, etc.
 - Unexplained serious injuries or multiple bruises, cuts, abrasions.
 - A spiral fracture.
 - Dislocated joints.
 - Bilateral bruising, which is bruising on both sides of the body (e.g. the top of both shoulders, both sides of the face or inside of both thighs).
 - Bruising to an area of the body which does not typically or easily bruise (e.g. midline stomach, breasts, genitals, inner thighs or middle of the back).
 - Injuries that are not consistent with what is reported to have happened.
 - Injuries explained as caused by self-injury to parts of the body the individual has not previously injured or cannot access.
 - Psychological: An act which causes or may cause mental or emotional anguish by threat, intimidation, humiliation, isolation, or other verbal or nonverbal conduct to diminish another. Examples include, but are not limited to:
 - Bullying, rejecting, degrading, and terrorizing acts.
 - Disregard for privacy during personal care.
 - Paid caregiver ignoring an individual, including, but not limited to:
 - Active ignoring (that is not part of an approved plan) such as ignoring a call or request for help/assistance.
 - Passive acts, such as non-essential use of a cell phone (or other electronic device), watching TV, etc.
 - Threats of isolation.
 - Yelling, name-calling, blaming, and shaming.
 - Mimicking or mocking an individual's voice, speech, behaviors, etc.
 - Statements that are intended to humiliate or infantilize, including insults, threats of abandonment or institutionalization and other controlling, dominant or jealous

Policy & Procedure

- behavior.
 - The act of taking, transmitting, or displaying an electronic image (in any medium including social media, personal computers, cell phones, etc.) of an individual that is intended to shame, degrade, humiliate, or otherwise harm the personal dignity of the individual.
 - When an individual witnesses an incident for which they were not the intended victim, but it causes or has caused mental or emotional anguish.
- Seclusion: The involuntary confinement of an individual in an area from which the individual is prevented from leaving. This includes verbal instruction or any explicit or implicit intimidation that indicates to an individual that they may not leave a room, regardless of whether the individual has the ability to physically remove himself or herself from the situation. Examples include, but are not limited to, the following prohibited acts:
 - Placing an individual in a locked room. A locked room includes a room with any type of engaged locking device such as a key lock, spring lock, bolt lock, foot pressure lock, device or object, or a person physically holding the door shut.
 - Placing an individual in a room from which they are unable to exit independently due to the general accessibility of the room (i.e. wheelchair ramps, transitions, etc.), features of the door hardware (i.e. handles that do not meet the accessibility needs of the individual), or any other obstacle that prevents an individual from exiting.
- Exploitation – An act or course of conduct by a person against an individual or an individual's resources without informed consent or with consent obtained through misrepresentation, coercion, or threats of force, which results in monetary, personal, or other benefit, gain, or profit for the target, or monetary or personal loss to the individual. Exploitation should be reported regardless of the actual or perceived value of the loss.
- Failure to Obtain Informed Consent: An intentional act or course of conduct by a person which results in the misuse of an individual's consent or failure to obtain consent. Examples include, but are not limited to, signing on behalf of or coercing/deceiving an individual into:
 - Applying for credit cards
 - Signing contracts
 - Signing loan documents, wills and other items that relate to the personal property, money, or identity of an individual.
- Material Resources: The illegal or improper act or process of a person using the material resources or possessions of an individual for his or her own personal benefit or gain. This includes, but is not limited to:
 - Misusing or stealing an individual's possessions
 - Soliciting gifts
 - Coercing an individual to spend his or her funds for things he or she may not want or need, things for use by others or for the benefit of the household

Policy & Procedure

- Medical Responsibilities/Resources: An act or course of conduct of a person that results in an individual paying for medical care or items that are normally covered by insurance or other means. This includes, but is not limited to:
 - Requiring an individual to pay for a medical appointment, procedure, or equipment due to failure of the ISP team to provide support or resources to find a medical provider that accepts the individual's insurance or whose services are covered by other means.
 - Requiring an individual to pay for an appointment, procedure, or equipment when there is a failure on the part of the service provider to support an individual to attend or schedule medical appointments or to maintain medical equipment.
- Missing/Theft of Medications: Missing medications without explanation or theft of medications.
- Misuse/Theft of Funds: The illegal or improper act or process of a person using the funds of an individual for his or her own personal benefit or gain. This includes misuse or mismanagement by a representative payee or other responsible party, theft of money, Supplemental Nutrition Assistance Program (SNAP) benefits, or soliciting monetary gifts from an individual.
- Room and Board: Requiring an individual to pay for items that are covered as part of room and board charges, charging more than allowable rates for room and board, or charging for a service or support that is included in a rate for which a provider is or will be reimbursed. This includes any situation in which the individual is required to pay for the same item/service twice. Examples of items that are covered as part of the room and board residency agreement (contract) include, but are not limited to:
 - Standard toiletries (shampoo, deodorant, soap, toothpaste, etc.)
 - Utility costs, including trash removal, lawn care, snow removal
 - Household furniture
 - Basic linens (blankets, towels, washcloths, sheets, pillowcases)
 - Cleaning, laundry, and other household supplies
 - One telephone with local telephone service
 - Internet service
 - Food choices of the individual, with consideration of the food cost and nutrition, including the individual's preference, culture, religion and beliefs, and an individual's prescribed diet, if the prescribed diet is not covered by the individual's health care plan or another funding source
 - Prescribed dietary items necessary for individuals' basic health and nutrition include, but are not limited to:
 - Products used to thicken liquids/foods
 - Phenylketonuria (PKU) diet foods
 - Meal replacement shakes and snacks
 - Diabetic diet foods
 - Laundry of towels, bedding, and the individual's clothing
 - Lawn care, food preparation, maintenance and housekeeping, including staff wages and benefits to perform these tasks

Policy & Procedure

- Meals provided away from the residential service location that are arranged by a staff person in lieu of meals provided in the residential service location
- Incontinence products, if the incontinence product is not covered by the individual's health care plan or another funding source
- Building and equipment repair, renovation, and depreciation
- Rent, taxes, and property insurance (55 Pa. Code § 6100.684)
- Unpaid Labor: The illegal or improper act or process of a person who is using an individual to perform unpaid labor that would otherwise be compensated in a manner consistent with labor laws.
- Neglect: The failure to obtain or provide the needed services and supports defined as necessary or otherwise required by law, regulation, policy, or plan (ISP, Behavior Support Plan, safety plan, etc.). This includes acts that are intentional or unintentional regardless of the obvious occurrence of harm.
- Failure to Provide Medication Management: An event that may cause harm or lead to inappropriate medication use while the medication is in the control of the person(s) charged with administration. Incidents of this nature include when harm occurs to the individual, the medication error occurs over more than one consecutive administration or an individual receives medication intended for another individual. Incidents of this type include, but are not limited to, a failure to:
 - administer medications via the correct route
 - implement medication changes in a timely manner
 - obtain medications from the pharmacy
- Failure to Provide Needed Care: The failure to obtain or provide the needed services and supports. This includes, but is not limited to:
 - Failure to implement medical, social, behavioral, and restrictive procedures as outlined in the ISP.
 - Failure to provide needed care such as food, clothing, personal hygiene, prompt and adequate medical care, emergency services, and other basic treatment and necessities needed for development of physical, intellectual, emotional capacity, and well-being.
 - Failure to obtain, keep in working order, or arrange for repair or replacement of equipment such as glasses, dentures, hearing aids, walkers, wheelchairs, etc.
 - Failure to intercede on behalf of the individual with regards to reporting or acting on changes to healthcare needs or failure to ensure medical equipment is repaired or replaced as needed.
- Failure to Provide Needed Supervision: The failure to provide attention and supervision, including leaving individuals unattended. This is based upon the supervision care needs in the ISP or recommendations or requirements from a court of law or as a condition of probation or parole.
- Failure to Provide Protection from Hazards: The failure to protect an individual from health and safety hazards as part of routine care, service provision or as outlined in the

Policy & Procedure

ISP. Examples of failure to provide protection from health and safety hazards include, but are not limited to:

- Failure to prepare and serve food required by an individual's medical diagnosis.
 - Failure to provide protections from poisonous materials.
 - Failure to provide shelter and basic utilities.
 - Failure to provide basic protections from environmental hazards such as exposure to the sun, extreme elements, and other weather-related conditions.
 - Failure to regulate water temperatures.
 - Failure to provide protection from hazardous activities such as the manufacture, distribution, exposure to and use of illegal drugs.
- Moving Violation: Any staff or volunteer receiving a moving violation citation during the provision of services to an individual regardless if operating an entity's vehicle or personal vehicle.
 - Rights Violation: An unauthorized act which improperly restricts or denies the human or civil rights of an individual, including those rights which are specifically mandated under applicable law, regulation, policy, or plan. This includes acts that are intentional or unintentional regardless of the obvious occurrence of harm.
 - Civil/Legal: Any violation of civil or legal rights afforded by law. This includes the right to vote, speak freely, practice religious choice, access law enforcement and legal services, as well as participate in local, state or national government activities.
 - Communication: The failure to support an individual to communicate at all times. This includes a failure to obtain needed communication evaluations, assistive devices or services; provide communication support; or maintain communication devices in working order. Communication includes, but is not limited to:
 - Display of text in fonts and sizes that meet communication needs
 - Access to sign language interpreters
 - Access to translation to preferred languages
 - Access to persons that can facilitate an individual's unique communication style
 - Access to braille materials and other tactile communication assistance
 - Access to plain-language materials
 - Health: The failure to support choice and opportunity related to health care. This includes failure to inform and educate an individual about physical or behavioral health evaluations and assessments, changes in health status, diagnosis information, test results, medications, treatment options, etc. This also includes the denial of the right of an individual to make informed health care decisions.
 - Privacy: Any violation of an individual's safely exercised choice to be free from being observed or disturbed by others. This includes an individual's choice to maintain the privacy of his or her physical person, living area, possessions, electronic social media (emails, posts on the internet, accounts, content, or any similar items), communication with others (whether in face-to-face meetings, phone, email, physical mail, or any other correspondence), use of image or likeness without the expressed permission of the individual (including videos or photos taken of the individual for promotional, marketing or any other purpose), or any similar area where a reasonable expectation of privacy exists.
 - Services: Any violation of an individual's right to control services received. This

Policy & Procedure

- includes when an individual refuses to participate in, voices a concern about, or wants to make a change to a service, and the ISP team does not address these choices. Individuals have the right to participate in the development and implementation of their ISPs and can choose where, when, and how to receive needed services. This also includes the right to control specific schedules and activities related to services.
- Unauthorized Restrictive Procedure: Any restrictive procedure (other than a physical, chemical, or mechanical restraint) that does not follow ODP's guidelines related to restrictive procedures or is prohibited by ODP. Restrictive procedures limit an individual's movement, activity or function; interfere with the individual's ability to acquire positive reinforcement; result in the loss of objects or activities that an individual values; or require an individual to engage in a behavior in which, given the freedom of choice, the individual would not engage.
 - Sexual Abuse: Any attempted or completed nonconsensual sexual act. The act may be physical or non-physical and achieved by force, threats, bribes, manipulation, pressure, tricks, violence or against an individual who is unable to consent or refuse. Sexual abuse includes any act or attempted act that is sexual in nature between a paid service provider staff and an individual regardless of consent on the part of the individual. Examples of methods used to commit sexual abuse include, but are not limited to:
 - Use of intimidation or threat of physical force toward an individual in order to gain compliance with a sexual act (e.g., pinning the victim down, assaulting the victim)
 - Administering alcohol or drugs to an individual in order to gain compliance with a sexual act (e.g., drink spiking)
 - Taking advantage of an individual who is unable to provide consent due to intoxication or incapacitation from voluntary consumption of alcohol, recreational drugs, or medication
 - Exploitation of vulnerability (e.g., immigration status, disability, undisclosed sexual orientation, age)
 - Misuse of authority (e.g., using one's position of power to coerce or force a person to engage in sexual activity)
 - Economic coercion, such as bartering of sex for basic goods, like housing, employment/wages, immigration papers, or childcare
 - Degradation, such as insulting or humiliating an individual
 - Fraud, such as lies or misrepresentation of a target's identity
 - Continual verbal pressure, such as when an individual is being worn down by someone who repeatedly asks for sex or, for example, by someone who complains that the individual does not love them enough
 - False promises by the target (e.g., promising marriage, promising to stay in the relationship, etc.)
 - Grooming and other tactics to gain an individual's trust
 - Control of an individual's sexual behavior/sexuality through threats, reprisals, threats to transmit sexually transmitted infections (STIs), threats to force pregnancy, etc.
 - Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of an

Policy & Procedure

individual. This includes when an individual was made, or there was an attempt to make the individual, penetrate another person (including the target).

- Sexual Harassment: Sexual advances that do not involve physical contact between an individual and a target. This type of sexual abuse can occur in many different venues (e.g., home, school, workplace, in public, or through technology). Examples include, but are not limited to:
 - Sending unwanted sexually explicit photographs
 - Use of inappropriate sexual remarks or language
 - Unwanted exposure to sexual situations - pornography, voyeurism, exhibitionist
 - Threats of sexual abuse to accomplish some other end, such as threatening to rape an individual if he or she does not give the target money
 - Threatening to spread sexual rumors if the individual does not have sex with the target
 - Unwanted filming, taking or disseminating photographs of a sexual nature of an individual (in any medium to include, but not limited to, social media, personal computers, cell phones, etc.)
 - Exposure to unwanted sexual materials (pornography)
- Unwanted Sexual Contact: Intentional touching or molesting, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, buttocks, or any other body part without consent. This includes making an individual touch or molest another person (including the target).
- Other: Any sexual abuse of an unknown type at the time of the report or sexual abuse that does not conform to other secondary category options.

Violation of Client Abuse Policy:

- Employees are trained initially and annually in their responsibility in regard to protection of an individual's rights.
- Employees are required to immediately intervene to protect the individual(s) including obtaining emergency medical care as needed in the event of an observed or suspected violation of the client abuse policy.
- Employees are required to immediately report observed or suspected violations of an individual's rights to the Incident Management Hotline. Failure to report knowledge of abuse or suspected abuse or failure to take appropriate action when informed of an allegation of either actual or suspected abuse may result in disciplinary action up to, and including termination.
- Any allegations of abuse will result in immediate suspension or relocation of the target employee(s)/separation from providing services to individual receiving services.
- Employees are required to participate in an investigation resulting from the report of a violation of the client abuse policy – failure to do so may result in disciplinary action up to and including termination
- All allegations of client abuse will be investigated according to the Department of Human Services/Office of Developmental Programs Incident Management Bulletin dated July 1, 2021 and AAdvantage Inc./AHS' Incident Management Policy.

Policy & Procedure

- Acts of abuse confirmed through the investigation will result in disciplinary action up to and including termination. If the allegations are determined to be not confirmed or inconclusive, the employee involved will be reinstated upon implementation for any identified preventative/additional corrective action
- Making false/misleading statements to appropriate investigative personnel regarding a matter of circumstance surrounding an incident of actual or suspected abuse.
- Failure or refusal to answer appropriate and reasonable questions or to provide signed written statements regarding an incident surrounding actual or suspected abuse.
- Destroying, falsifying, altering records, documents and other evidence which relates to an incident of actual or suspected abuse.
- Failure to ensure confidentiality and privacy in regard to history, records and discussions about the people we serve. This includes disclosing any information about a person to anyone outside the agency unless authorized.

Updated January 1, 2022