

# Adult Protective Services Investigation Classification

## Policy 8.11

Effective: February 28, 2024

### Introduction

To ensure that all Adult Protective Services investigations are properly classified the specialist must organize, analyze, and weigh the evidence to derive a classification for the investigation.

### Scope

The purpose of this policy is to establish the criteria for:

- Classification of investigations,
- Disposition of allegations, and
- Determination of alleged perpetrators.

### Policy

#### Procedures

##### A. Investigation Classification Process

1. Based on the Structured Decision Making (SDM) assessment(s) and the evidence gathered, the Adult Protective Services (APS) investigative specialist must:
  - a. dispose of the allegation,
  - b. determine the alleged perpetrator,
  - c. classify the investigation in the case management system (CMS), and
  - d. assess the need for continued APS intervention.
2. The investigation shall be given a classification as soon as it is complete. Cases shall not remain in investigation status while awaiting services. Cases should be moved to ongoing services if the investigation is complete, but protective services are needed.

**Note:** Forms listed in the policy are to be used if the CMS is not available.

##### B. Standards of Evidence

Different Standards of Evidence are required to dispose of allegations and determine the alleged perpetrator.

1. The standard of proof for determining if the allegation is substantiated/unsubstantiated and for the provision of protective services is "substantial and material evidence".
2. The standard of proof required for indicating a perpetrator and/or for considering legal intervention is "preponderance of evidence".

The evidence gathered must be of such quantity and quality that it meets the legal standard for Office of General Counsel (OGC) to initiate legal action. If OGC determines that legal action will be taken, [HS-2752 Legal Referral for Actions Pursuant to the Tennessee Adult Protection Act](#) must be completed in full.

### C. Disposition of Allegation

Substantial and material evidence is the standard of evidence used to dispose of an allegation as:

1. Substantiated,
2. Threat of Harm, or
3. Unsubstantiated.

Allegation disposition is separate from alleged perpetrator determination. E.g., An allegation could be substantiated without an indicated or founded alleged perpetrator. However, a perpetrator cannot be founded/indicated without a substantiated allegation or threat of harm.

### D. Alleged Perpetrator Determinations for Unpaid Caregivers

Preponderance of evidence is the standard used to determine an unpaid alleged perpetrator as:

1. Founded,
2. Unfounded,
3. Unknown, or
4. Unable to Determine Perpetrator. See [Investigation Classification Procedures](#) for factors.

### E. Alleged Perpetrator Determinations for Paid Caregivers

The disclosure of information from the Tennessee Department of Human Services (TDHS) records to an employer or licensing authority of a paid caregiver, or to the Tennessee Department of Health (TDH) Vulnerable Persons Registry, that a person has been indicated as a perpetrator of abuse, neglect, and/or exploitation (A/N/E) of an adult shall be for the purpose of preventing further A/N/E of vulnerable persons.

Should TDHS determine that there is a preponderance of the evidence sufficient to indicate a paid caregiver as an alleged perpetrator of A/N/E, TDHS must first provide due process to the alleged perpetrator before releasing that determination to the employer or licensing authority of the person and before placement of the person's name on the TDH Vulnerable Persons Registry.

Final determination options for paid caregivers:

1. Due Process – Indicated
2. Due Process – Indicated (Other Agency)
3. Due Process – Indicated (Unable to Serve)
4. Due Process – Unfounded
5. Due Process – Unable to determine
6. Due Process – Appeal (Upheld)
7. Due Process – Not Recommended
8. Due Process – Appeal (Overturned)

**Exception:** [Rule 1240-07-03-.03](#) allows release of information regarding the investigation involving an alleged perpetrator of A/N/E to certain entities or persons.

When a due process case is initiated, the Due Process Investigative and Referral Checklist and Due Process Referral are completed via the CMS. ([HS-3122 Due Process Referral](#), [HS-3375 Due Process Investigative and Referral Checklist](#)) Refer to: [Due Process Steps](#) and [Due Process Work Flow for Placement of Perpetrator on Abuse Registry](#)

## F. Classification of Investigation Results

Case classification is auto-derived by the CMS and is based upon the allegation disposition. The case classification will be one (1) of the following:

1. **Valid:** Permits the provision of protective services to the client with the client's consent.
2. **Valid Threat of Harm:** Permits the provision of protective services with the client's consent, but not enough evidence to support substantiation.
3. **Invalid**
4. **Incomplete**

## G. Determination of an Investigation

The APS investigative specialist must dispose of an allegation by determining whether it is substantiated, unsubstantiated, or threat of harm. They must also determine whether the alleged perpetrator(s) is founded, indicated, unfounded, unable to determine, or unknown. Each allegation must be separately addressed, and the basis for founded/indicating each alleged perpetrator must be analyzed in relation to the allegation.

**Exception:** The allegation of self-neglect has no perpetrator.

## Supporting Documents

[HS-2752 Legal Referral for Actions Pursuant to the Tennessee Adult Protection Act \(Instructions\)](#)

[HS-3122 Due Process Referral \(Instructions\)](#)

[HS-3375 Due Process Investigative and Referral Checklist \(Instructions\)](#)

**Note:** Forms listed in the policy are to be used if the CMS is not available.

[Chapter 1240-07-.03 Reports of Abuse, Neglect or Exploitation of Adults](#)

[Investigation Classification Procedures](#)

[Due Process Steps](#)

[Due Process Work Flow for Placement of Perpetrator on Abuse Registry](#)

## Definitions/Acronyms

Term	Definition
<b>A/N/E</b>	Abuse/Neglect/Exploitation
<b>APS</b>	Adult Protective Services
<b>Abuse or Neglect</b>	The infliction of physical pain, injury, or mental anguish, or the deprivation of services by a caregiver that are necessary to maintain the health and welfare of an adult. A situation in which an adult is unable to provide or obtain the services that are necessary to maintain that person's health or welfare.
<b>Beyond a Reasonable Doubt</b>	The state must prove that each element of the criminal offense happened and that the crime was committed by the defendant.

<b>Caregiver</b>	<p>A person or institution that has assumed the duty to provide for the care of the adult by contract or agreement, or service exchange (i.e. someone who provides cleaning, cooks, or shopping, etc. in exchange for room and board.) A caregiver may be paid or unpaid. A caregiver, including a parent, spouse, adult child, or other relative, both biological or by marriage, who:</p> <ol style="list-style-type: none"> <li>1. Resides in the same building with or regularly visits the adult; and</li> <li>2. Knows or reasonably should know of the adult's mental or physical dysfunction or advanced age; and</li> <li>3. Knows or reasonably should know that the adult is unable to adequately provide for the adult's own care.</li> </ol>
<b>Classification</b>	A determination auto-derived by the case management system based upon the allegation disposition.
<b>Clear and Convincing Evidence</b>	Clear and convincing evidence is a different and higher standard than preponderance of the evidence. To prove an issue by clear and convincing evidence, the burden of proof must show that the proposed conclusion is highly probable and that there is no serious or substantial doubt about the accuracy of the conclusions drawn from the evidence.
<b>CMS</b>	Case Management System
<b>Dispose/Disposition</b>	Determine/determination
<b>Due Process</b>	The principle that an individual cannot be deprived of life, liberty, or property without appropriate legal procedures and safeguards.
<b>Financial Abuse</b>	<p>Behavior that is coercive, deceptive, or that unreasonably controls or restrains a person's ability to acquire, use, or maintain economic resources to which the person is entitled, including using coercion, fraud, or manipulation to:</p> <ul style="list-style-type: none"> <li>• Restrict a person's access to money, assets, credit, or financial information;</li> <li>• Unfairly use a person's economic resources, including money, assets, and credit, to gain an advantage; or</li> <li>• Exert undue influence over a person's financial behavior or decisions, including forcing default on joint or other financial obligations; exploiting powers of attorney, guardianship, or conservatorship; or failing or neglecting to act in the best interest of the person to whom a fiduciary duty is owed.</li> </ul>
<b>Founded</b>	The preponderance of the evidence indicates that the <b>unpaid</b> caregiver committed the allegation.
<b>Incomplete</b>	Not possible to complete or otherwise determine the investigation.
<b>Indicated</b>	The preponderance of the evidence indicates that the <b>paid</b> caregiver committed the allegation.
<b>Invalid</b>	No substantiated allegations of abuse, neglect, and/or exploitation.
<b>Neglect</b>	This occurs when the basic needs of a dependent adult are not met by a caregiver. It may be unintentional, resulting from the caregiver's lack of ability to provide or arrange for the care/services for the adult. It also may be due to the intentional failure of the caregiver to

	meet the adult's needs. This also includes financial abuse which results in the client having unmet need(s) such as an inability to purchase medications or pay a utility bill.
<b>OGC</b>	Office of General Counsel
<b>Paid Caregiver</b>	As defined in <a href="#">Chapter 1240-07-03-.02 Reports of Abuse, Neglect or Exploitation of Adults</a>
<b>Preponderance of Evidence</b>	The standard of proof required for finding/indicating a perpetrator and/or for considering most legal interventions on behalf of a client. This standard means that the greater weight of the evidence demonstrates that it is more likely than not that something has occurred. This may be analogized from a quantitative standpoint; for example, by demonstrating credible evidence from the investigation that supports a finding that it is 50.1% more likely that something occurred versus a level of evidence of 49.9% that it did not occur.
<b>Probable Cause</b>	A low level of reasonable belief, based on facts that can be communicated, that the event or incident occurred. In short, there must be enough facts that would lead a reasonable person to believe that the claim or charge is probably true.
<b>Self-Neglect</b>	An adult's inability, due to physical or cognitive impairment, including diminished capacity, to provide or obtain services, including medical services, necessary to maintain the adult's own health or welfare.
<b>Substantial and Material Evidence</b>	The standard for indicating an allegation of abuse, neglect, and/or exploitation and maintaining an open case in order to provide protective services. This is relevant evidence that furnishes a reasonably sound factual basis for the decision. There is enough credible evidence regarding whether an event has occurred or a factual situation exists that the decision makes sense when looked at objectively and it is reasonable to act upon that evidence. It is a lesser level, or standard, of evidence than the "preponderance of evidence" or "beyond a reasonable doubt" standards of evidence and should not be the basis for deciding to initiate legal action or to indicate a perpetrator of abuse, neglect, and/or exploitation for placement on the abuse registry (Registry of Persons Who Have Abused, Neglected or Misappropriated the Property of Vulnerable Individuals).
<b>Substantiated</b>	Determination that the information gathered during the investigation supports that abuse, neglect, exploitation, and/or self-neglect occurred. This disposition is based on substantial and material evidence that the allegation did occur.
<b>TDH</b>	Tennessee Department of Health
<b>Threat of Harm</b>	Determination that no substantiation of allegations that abuse, neglect, exploitation, and/or self-neglect occurred but there is reason to believe that, without intervention, there is a substantial probability that harm will occur to the client in the immediate or foreseeable future.
<b>Unfounded</b>	The preponderance of the evidence indicates the alleged perpetrator, whether paid or unpaid, did not commit the allegation.
<b>Unsubstantiated</b>	Determination that the information and evidence gathered during the investigation does not support that abuse, neglect, exploitation, and/or self-neglect occurred or that the client is at risk.
<b>Valid</b>	If credible evidence demonstrates "substantial and material" evidence of the occurrence of abuse, neglect, and/or exploitation.

**Supersedes**

8.11 APS Investigation Classification Policy, eff. date 07/15/2023

**Approval History**

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Clarence H. Carter	Commissioner	03/01/2024	02/28/2024
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Danielle Barnes	Commissioner	05/09/2019	06/15/2019

**Revision History**

Date	Version	Location of Change	Description/Reason for Change
05/03/2024	02/28/2024	Supporting Documents	This policy was revised to remove an obsolete form.
03/01/2024	02/28/2024	Policy and Definitions	Added "self-neglect" due to statute change.
06/29/2023	07/15/2023	Policy section and Definitions	Removed self-neglect investigation requirement references; Added Financial Abuse to Neglect definition and added Financial Abuse definition
02/24/2023	03/01/2023	Policy Section	Added clarification to Valid Threat of Harm
08/30/2022	09/01/2022	Scope & Policy Sections	Revised Scope and Section B clarified standard of evidence
05/09/2019	06/15/2019	N/A	New Policy

<b>Approved By</b>	<i>Clarence H. Carter</i>	<b>Approval Date</b>	03/01/2024
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