



The Division of Senior and Disability Services (DSDS) authorizes Home and Community Based Services (HCBS) to providers on behalf of eligible participants. HCBS providers must meet certain regulatory and contractual requirements to become and remain a Medicaid enrolled provider. When DSDS staff become aware of significant complaints regarding an HCBS provider, DSDS staff shall complete the Provider Complaint Report ([8.00 Appendix 7](#)) to document and report the complaint. Provider Complaints are defined as when an HCBS participant is reported to have a concern regarding an Agency Model personal care aide, CDS attendant or other employee of the HCBS provider. The Provider Complaint is beyond the definition of an Ethical Concern, and does not rise to the level of an Abuse, Neglect, or Exploitation (ANE) report.

Provider Complaints Types

Contract complaints (all HCBS providers) may include:

- Failure of the provider to pay required taxes;
- Failure of the provider to maintain business or emergency contact numbers;
- Failure of provider staff to be available for contact; and/or
- Noncompliance with the requirements of the Health Insurance Portability and Accountability Act (HIPAA).
 - HIPAA violations include sharing any information about a participant with any other person/entity that does not have a need to know, e.g. sharing pictures of the participant, talking to other participants about participant's private information, etc.
 - Potential HIPAA violations should first be reported to the HCBS provider's Privacy Officer. If that does not resolve the problem, the violation shall also be reported to the Department of Social Services (DSS) Privacy Officer by calling 573-751-3229.

Financial complaints may include:

- All HCBS providers
 - Billing fraud
- Agency Model only providers
 - Accepting gifts or tips;
 - Soliciting or accepting money or goods from participant for personal gain;
 - Purchasing any item from participant even at fair market value;
 - Assuming control of the participant or the participant's estate, including power of attorney, conservatorship, or guardianship;
 - Adding names to bank accounts, deeds, titles, or any other documents regarding participant's property; and/or

- Taking anything from the participant or the participant's home.

Regulatory complaints may include:

- All HCBS providers
 - Failure to meet Family Care Safety Registry (FCSR) / Employee Disqualification List (EDL) [requirements](#);
 - Failure to meet Electronic Visit Verification (EVV) [requirements](#);
 - Failure to inform the participant of provider choice;
 - Failure to cooperate and communicate with state agency;
 - Failure to provide services as authorized;
 - Failure to provide services within required timeframes;
 - Failure to provide adequate services;
 - Failure to provide adequate training;
 - Failure to maintain adequate records;
 - Failure to make mandatory reports to the Adult Abuse, Neglect and Exploitation Hotline.
- Agency Model only
 - Failure to keep a qualified designated manager on staff;
 - Failure to keep a qualified Registered Nurse (RN) on staff;
 - Failure to prevent unqualified personnel from providing services;
 - Failure to obtain physician's orders, when necessary;
 - Providing services to immediate family members; and/or
 - Providing transportation of participants.
- Other (All HCBS Providers)
 - Failure to address ethical concerns (defined below).

Some complaints are not appropriate for DSDS staff to accept and should be referred to the appropriate resource.

- Concerns regarding Workers Compensation insurance shall be referred to the Department of Labor and Industrial Relations (DOLIR), Division of Labor Standards as listed on the [DOLIR website](#).
- Complaints regarding property destruction shall be referred to the law enforcement agency within the participant's jurisdiction by the participant or legal representative, as appropriate.

Provider Complaint Process

Upon receipt of a complaint, DSDS staff shall document the information received on the Provider Complaint Report ([8.00 Appendix 7](#)), along with any additional information received via collateral contacts. The Provider Complaint Report shall be forwarded to the appropriate supervisor within five (5) business days. The supervisor shall review the report for accuracy, and inform DSDS staff approval to enter the complaint into the APS online reporting application. There is no need to retain the report once the complaint has been entered into the APS online reporting application.

DSDS staff shall document all contacts related to the complaint in the participant's electronic case record, without including information related to ANE.

NOTE: The Provider Complaint Process is not to be utilized to report ANE of an eligible adult to the Central Registry Unit (CRU). If a provider complaint rises to the level of ANE, this information shall be forwarded to the designated Adult Protective Services (APS) contact in their Region for entry into the APS online reporting application. The APS contact will register all necessary reports into the APS system of record so they may be appropriately cross-referenced. Allegations regarding ANE shall not be recorded in case notes; however, case notes shall indicate that an "appropriate referral was made".

Ethical Concerns

Ethical concerns presented to DSDS staff shall be referred back to the provider or participant as they do not meet the level of a Provider Complaint. If a provider is presenting ethical concerns, education should be given to the provider so the provider is knowledgeable on different ways to rectify the situation. If a participant is presenting the ethical concern, DSDS staff shall inform the participant on how to address concerns with the provider. DSDS staff shall ensure the participant has been informed they can receive a provider change if the situation is not resolved to their satisfaction. DSDS staff shall contact the provider to ensure they are made aware of the concerns and need to address/correct the concerns.

Ethical concerns are actions of inappropriate conduct and only apply to Agency Model providers. Examples may include but are not limited to:

- Using participant's car;
- Consuming participant's food or drink (except water);
- Consuming alcoholic beverages while in the participant's home;
- Consuming drugs while in the participant's home;
- Consuming medicine for reason other than prescribed while in the participant's home;
- Use of tobacco products in participant's home;
- Using participant's telephone for personal calls;
- Being at participant's home when participant is not present; and/or
- Discussing personal problems, religious or political beliefs with participant.