

HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 9 ADULT AND COMMUNITY CARE PROGRAMS

CHAPTER 1421

PROTECTIVE SERVICES FOR VULNERABLE ADULTS

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Historical Note: Chapter 17-1421 is based substantially upon chapter 17-919.1. [Eff 12/21/89; am and comp 10/5/91; R 6/29/92]

SUBCHAPTER 1

GENERAL PROVISIONS

§17-1421-1 Goal. The goal of protective services offered by the department is to remedy abuse, neglect, or exploitation of vulnerable adults. [Eff 6/29/92; am and comp **OCT 30 2009**] (Auth: HRS §§346-14, 346-253) (Imp: HRS §346-14)

§17-1421-2 Definitions. As used in this chapter: "Abuse" shall be as defined in section 346-222,

HRS.

"Capacity" shall be as defined in section 346-222,

HRS.

"Caregiver" shall be as defined in section 346-222, HRS.

"Caregiver neglect" shall be as defined in section 346-222, HRS.

"Confirmed" means that an investigation conducted by the department revealed reasonable cause to believe that vulnerable adult abuse had occurred.

"Court" shall be as defined in section 346-222, HRS.

"Financial exploitation" shall be as defined in section 346-222, HRS.

"Investigation" means the professional and systematic gathering and evaluation of information about the vulnerable adult for the purpose of making decisions regarding confirmation of abuse, protection of the vulnerable adult, and the provision of services for the vulnerable adult.

"Legal guardian" means a person appointed by the court who has the rights and responsibilities over the vulnerable adult as a parent has over an unemancipated minor subject to the limitations on the powers of the guardian ordered by the court.

"Perpetrator" means the person identified by a reporter of vulnerable adult abuse or the department as the person who, by acts or omissions, has abused a vulnerable adult.

"Physical abuse" shall be as defined in section 346-222, HRS.

"Protective service incident" means any new occurrence of reported abuse of a vulnerable adult to the department.

"Protective services for vulnerable adults" means the specialized, time-limited services provided on behalf of a vulnerable adult who is reported to have been abused to ensure the vulnerable adult's safety and welfare.

"Protective services plan" shall be as defined in section 346-222, HRS.

"Psychological abuse" shall be as defined in section 346-222, HRS.

"Self-neglect" shall be as defined in section 346-222, HRS.

"Sexual abuse" shall be as defined in section 346-222, HRS.

"Unconfirmed" means that an investigation conducted by the department revealed there was insufficient evidence to confirm that vulnerable adult abuse had occurred.

"Vulnerable adult" shall be as defined in section 346-222, HRS. [Eff 6/29/92; am and comp **OCT 30 2009**] (Auth: HRS §§346-14, 346-253) (Imp: HRS §§346-14, 346-222, 560:5-101) **OCT 30 2009**

§17-1421-3 Eligibility requirements. Protective services shall be available to vulnerable adults who are abused without regard to income as specified in section 17-1416-20(2)(B). [Eff 6/29/92; am 10/28/95; am and comp **OCT 30 2009**] (Auth: HRS §§346-14, 346-253) (Imp: HRS §346-14)

§17-1421-4 Geographic areas of service. Protective services for vulnerable adults shall be available throughout the State subject to the availability of resources. [Eff 6/29/92; am and comp **OCT 30 2009**] (Auth: HRS §§346-14, 346-253) (Imp: HRS §346-14)

§17-1421-5 Authorization for service. (a) Protective services shall be authorized for vulnerable adults following a referral or request for protective services.

§17-1421-5

(b) The department shall document the referral or request on a prescribed department form.

(c) Subject to the availability of funds, payment for protective service resources shall be authorized for each protective service incident when:

- (1) The vulnerable adult meets the eligibility requirements specified in section 17-1421-3;
- (2) The department determines that protective service resources are necessary and appropriate for the vulnerable adult; and
- (3) No other method of payment is available such as medicaid assistance or purchase of service.

(d) Payment for the provision of services not provided directly by the department shall be at a rate specified by the department and shall be authorized for a period not to exceed forty-five calendar days.

(e) The department shall give written notice to the recipient of service prior to initiating action to terminate, suspend, or reduce authorized services in accordance with section 17-1416-44. [Eff 6/29/92; am and comp ^{OCT 30 2009}] (Auth: HRS §§346-14, 346-253) (Imp: HRS §346-14)

SUBCHAPTER 2

REPORTS

§17-1421-6 Screening of reports. (a) The department shall screen each report of vulnerable adult abuse received to determine whether the subject of the report is a vulnerable adult who:

- (1) Has incurred abuse; or
- (2) Is in danger of abuse if immediate action is not taken.

(b) When the provisions of subsection (a) are met, the vulnerable adult abuse report shall be accepted for investigation by the department.

(c) When the provisions of subsection (a) are not met, the department shall provide information, referral, or consultation services as appropriate.

(d) The department shall make every good faith effort to maintain the confidentiality of the reporter's identity pursuant to section 346-225, HRS. [Eff 6/29/92; am and comp ^{OCT 30 2009}] (Auth: HRS §§346-14, 346-253) (Imp: HRS §§346-14, 346-225, 346-227)

§17-1421-7 Registration of reports. Each report of vulnerable adult abuse accepted for investigation by the department as specified in section 17-1421-6 shall be entered into the department's information system, which is the state central registry on vulnerable adult abuse, in accordance with departmental procedures. [Eff 6/29/92; am and comp **OCT 30 2009**] (Auth: HRS §§346-14, 346-253) (Imp: HRS §§346-14, 346-224)

§17-1421-8 Reporting of vulnerable adult abuse. Instances of vulnerable adult abuse that may involve a crime shall be reported to the police or appropriate law enforcement agency with or without the adult's consent. [Eff 6/29/92; am and comp **OCT 30 2009**] (Auth: HRS §§346-14, 346-253) (Imp: HRS §346-14)

SUBCHAPTER 3

SCOPE OF SERVICE

§17-1421-9 Investigation. (a) An investigation shall include but not be limited to:

- (1) Reasonable efforts to have face to face contact with the vulnerable adult and alleged perpetrator(s) of abuse using police assistance as necessary in accordance with section 346-229, HRS;
- (2) Collateral contacts as needed with others such as family members, friends of the vulnerable adult, and professionals who may have information about the vulnerable adult relevant to the investigation; and
- (3) An assessment of the need for protective services and referrals to appropriate resources.

(b) The department shall arrange for appropriate evaluations to be conducted as necessary to complete the assessment, including but not limited to psychological, medical, or other evaluations in accordance with departmental procedures. [Eff 6/29/92; am and comp **OCT 30 2009**] (Auth: HRS §§346-14, 346-253) (Imp: HRS §§346-14, 346-226 to 346-229)

§17-1421-9.1 Disposition and notice. (a) For those reports accepted for investigation pursuant to

§17-1421-9.1

section 17-1421-6, a disposition shall be made in accordance with departmental procedures and documented in the department's information system within sixty calendar days of the date of the report as to whether the vulnerable adult has been abused.

(b) The disposition shall be shared with and explained to the vulnerable adult or the vulnerable adult's legal guardian and the identified perpetrator(s) either in writing or orally.

(c) In addition, the department shall provide a written notice on a prescribed department form to the identified perpetrator(s) of the disposition of the investigation. The written notice shall include:

- (1) The department's decision to confirm or not confirm the allegations of vulnerable adult abuse;
- (2) The specific rules supporting the action; and
- (3) The identified perpetrator's right to appeal the department's disposition through established hearing procedures.

(d) Information shared with the identified perpetrator(s) shall be in accordance with provisions specified in chapter 17-1401.1 and section 17-1421-12.

(e) When the vulnerable adult, the vulnerable adult's legal guardian, or the identified perpetrator(s) cannot be contacted, this fact shall be noted in the department's records. [Eff and comp

OCT 30 2009] (Auth: HRS §§346-14, 346-253) (Imp: HRS §346-14)

§17-1421-10 Provision of services. (a) Protective services for vulnerable adults shall include the development of a protective services plan.

(b) Services such as the following shall be provided as determined necessary by the department to prevent further abuse:

- (1) Providing counseling to the vulnerable adult alone, and where appropriate, to family members and other collaterals to assist the individuals in recognizing the problems resulting in abuse and in developing alternative means of handling the situation;
- (2) Assisting the vulnerable adult, the vulnerable adult's family or friends, or legal guardian in locating and arranging for needed services in the vulnerable adult's

- home or in an alternative living arrangement;
and
- (3) Assisting the vulnerable adult in the initial adjustment to services provided.
- (c) When the department has determined that another agency is more appropriate to provide services following an investigation, the department may arrange with that agency for the delivery of service. The arrangement shall be noted in the protective services plan.
- (d) Services identified in subsections (a) through (c) shall not be provided to the vulnerable adult against the person's expressed wishes unless:
- (1) An order for immediate protection is made by the court as specified in section 17-1421-11; or
- (2) The legal guardian, appointed by the court following a determination that the vulnerable adult lacks the capacity to make decisions concerning the vulnerable adult's person, agrees to the provision of services. [Eff 6/29/92; am and comp **OCT 30 2009**] (Auth: HRS §§346-14, 346-253) (Imp: HRS §§346-14, 346-228)

§17-1421-11 Court intervention. (a) The department shall initiate court action by petitioning for an order for immediate protection when, in accordance with sections 346-231 and 346-232, HRS, the department determines that there is reason to believe the vulnerable adult has incurred abuse or is in danger of abuse if immediate action is not taken.

(b) The department may initiate court action for the appointment of a legal guardian or conservator under article V of chapter 560, HRS, and may consolidate this action with the proceedings for an order for immediate protection. [Eff 6/29/92; am and comp **OCT 30 2009**] (Auth: HRS §§346-14, 346-253) (Imp: HRS §§346-14, 346-231, 346-232)

§17-1421-12 Confidentiality. (a) All information relating to cases of vulnerable adult abuse shall be confidential and unauthorized disclosure shall be punishable as provided in section 346-225, HRS.

(b) In addition, the provisions of chapter 17-1401.1 shall apply to this chapter. [Eff 6/29/92; am

§17-1421-12

12/5/97; am 10/21/00; am 10/21/05; am and comp
OCT 30 2009] (Auth: HRS §§346-10, 346-14, 346-253)
(Imp: HRS §346-225)

§17-1421-13 Coordination with and referral to other agencies. (a) The department may enter into written agreements or purchase of service contracts with other agencies for the provision of services, including screening of reports and investigation, as specified in sections 17-1421-6, 17-1421-9, and 17-1421-10.

(b) Upon termination of protective services for vulnerable adults by the department, the vulnerable adult shall be referred to the agency responsible for follow-up services as appropriate. For the mentally ill adult and the developmentally disabled adult, the designated state agency to provide services is the department of health. [Eff 6/29/92; am and comp
OCT 30 2009] (Auth: HRS §§346-14, 346-253) (Imp: HRS §§346-14, 346-230)

SUBCHAPTER 4

TERMINATION

§17-1421-14 Termination of payment. Payment for protective service resources for vulnerable adults shall be terminated under one of the following conditions:

- (1) The vulnerable adult no longer meets eligibility requirements for protective services as specified in this chapter;
- (2) Protective services for the vulnerable adult are terminated as specified in section 17-1421-15;
- (3) The vulnerable adult has been the recipient of services for the maximum days allowed under section 17-1421-5;
- (4) The court orders an individual, agency, or organization other than the department to continue payment for protective service resources;
- (5) The department lacks available funds to provide payment for protective service resources;

- (6) Termination of payment for services is in accordance with the protective services plan;
- (7) The vulnerable adult withdraws consent for the continuation of services;
- (8) The placement resource no longer meets applicable state licensing requirements; or
- (9) The placement resource is no longer able to accommodate the vulnerable adult. [Eff 6/29/92; am and comp **OCT 30 2009**] (Auth: HRS §§346-14, 346-253) (Imp: HRS §§346-14, 346-230)

§17-1421-15 Termination of service. Protective services shall be terminated under one of the following conditions:

- (1) When, after reasonable effort is made by the department to provide protective services, the department determines through personal observation, discussion with the vulnerable adult and available family members, friends, other collaterals or legal guardian that the vulnerable adult does not require or no longer needs protection and is able to manage in an alternate living arrangement or at home, with or without supportive services, without danger;
- (2) When, after reasonable effort is made by the department to provide protective services, the vulnerable adult continues to resist contact with the department, and there are insufficient grounds to pursue legal guardianship;
- (3) The vulnerable adult withdraws consent for the provision of services and there are insufficient grounds to pursue legal guardianship;
- (4) The court dismisses the petition for legal guardianship and the vulnerable adult refuses to accept services from the department;
- (5) The court terminates its authorization to provide necessary services and the vulnerable adult refuses to accept services from the department;
- (6) The vulnerable adult leaves the State; or
- (7) The vulnerable adult dies. [Eff 6/29/92; am and comp **OCT 30 2009**] (Auth: HRS §§346-14, 346-253) (Imp: HRS §§346-14, 346-230)