

Proposed Rule:

Establishing Adult Protective Services Regulations

An Overview for ACL's Network:

The Administration for Community Living is seeking input on a proposed rule to establish the first-ever federal regulations for adult protective services (APS) programs. Instructions for submitting comments and registering for an informational webinar on Sept. 18 can be found at [ACL.gov/APSRule](https://acl.gov/APSRule).

Summary

The proposed rule aims to improve consistency and quality of APS services across states and support the national network that delivers APS services, with the ultimate goal of better meeting the needs of adults who experience, or are at risk of, maltreatment. To those ends, the proposed rule:

- Establishes a set of national standards for the operation of APS programs that all state APS systems must meet. These standards formalize – and build upon – the existing [National Voluntary Consensus Guidelines for State APS Systems](#).
- Establishes common definitions for the national APS system to improve information sharing, data collection and standardization between and within states.
- Requires state APS systems to develop policies and procedures, consistent with state law, for coordination and sharing of information to facilitate investigations with other entities, such as state law enforcement agencies, and state Medicaid agencies.
- Requires state policies and procedures to be person-directed and based on concepts of least restrictive alternatives.
- Establishes requirements for data collection, retention, and reporting.
- Establishes requirements for mandatory staff training and ongoing education on core competencies for APS staff and supervisors.

The proposed rule is the culmination of many years of engagement with stakeholders from APS and long-term care ombudsman programs, as well as aging and disability advocates, from across the country. It also reflects input received through several listening sessions, extensive research, and analysis of data from a 2021 survey of 51 APS systems, ACL's National Adult Maltreatment Reporting System, and policy profiles from APS programs in all states and territories.

Background: Adult Maltreatment and APS Programs

Research shows that at least one in 10 older adults who live in the community experiences some form of maltreatment each year – and this is likely an undercount, because only 1 in 14 cases is reported. The isolation and loss of services during the COVID-19 pandemic placed older adults at increased risk, and incidents of abuse are estimated to have doubled. We also know that adults with disabilities experience abuse and neglect far more often than their peers without disabilities, although estimates of the prevalence vary significantly from one study to the next.

This can have serious physical and mental health, financial, and social consequences. People who experience abuse have higher rates of depression, hospitalization and institutionalization – and they are more likely to die prematurely.

APS programs across the country work to support older adults and adults with disabilities who experience, or who are at risk of, abuse, neglect, self-neglect, or financial exploitation. APS programs investigate reports of maltreatment; conduct case planning, monitoring and evaluation; and provide, or connect people who have experienced maltreatment to, a variety of medical, social service, economic, legal, housing, law enforcement, and other protective, emergency, or support services to help them recover.

APS has been designed and administered wholly at the state or local level until recently. Consequently, there is wide variation in APS services and practices between, and even within, states.

Over the past decade, ACL has led federal efforts to support the critical work of APS programs through a variety of initiatives. Since 2015, ACL has awarded discretionary grants to states to test innovations and improvements in APS practices, services, data collection, and reporting; facilitated sharing of lessons learned and promising practices across APS systems; and provided technical assistance to support states in developing APS systems that are tailored to the needs, goals, culture, and preferences of the person being served.

In 2016, ACL worked with experts across the country to develop National Voluntary Consensus Guidelines, which provide a core set of principles and common expectations to encourage consistency in practice, ensure adults are afforded similar protections and APS services regardless of locale, support interdisciplinary and interagency coordination, and promote effective, efficient, culturally competent service delivery. However, because implementation of the guidelines is voluntary, they have not produced the widespread change in APS systems or practices that only mandatory guidelines can.

In 2021, ACL received appropriations to fund – for the first time – the nationwide APS formula grant program that was authorized by the Elder Justice Act. These appropriations elevate the need for federal leadership, guidance, and support for state and local APS programs.

Key Provisions of the Proposed Rule

The following is a plainer-language overview of some of the core provisions of the proposed rule. It was written to be easier to understand for people without an in-depth understanding of APS or a legal background. It does not include all of the provisions or complete details of the summarized provisions. Please use this document

as a tool to navigate the proposed rule; it should not be considered a substitute.

Establishing a common vocabulary for APS

The rule proposes definitions for foundational terms in APS practice (§ 1324.401). For example, the proposed rule defines “adult maltreatment” as including abuse, neglect, exploitation, sexual abuse, and self-neglect (and proposes definitions for those terms).

Establishing minimum standards for APS programs

The proposed rule codifies and clarifies a set of mandatory minimum national standards to ensure uniformity across APS programs and to promote high quality service delivery. If implemented, these standards will ensure that people are afforded similar protections and services regardless of where they live. For example, the proposed rule requires state APS systems to:

- Ensure a person-directed approach to service delivery. The proposed rule reflects ACL’s commitment to ensuring that planning and delivery of all services provided through its programs respect the fundamental right of adults to make their own life choices. For example, the proposed rule requires states to adopt policies and procedures that:
 - » Ensure the preservation of the APS client’s rights, promote the client’s views about safety and respect the client’s definition of successful outcomes. (§ 1324.402(a)).
 - » Ensure APS clients are informed of their rights under state law, at their first contact with the APS program. These include confidentiality and privacy requirements, the right to refuse services, and the right to refrain from speaking with APS. Providers must ensure that these rights are communicated in plain language and formats, including those accessible to people with disabilities and those with limited English proficiency (§ 1324.402(b)).
- Establish policies and procedures to prevent, recognize, and promptly address both real and perceived conflicts of interest. (§ 1324.404).
- Respond to all reports of adult maltreatment, as defined in the rule. (Currently, some states define adult maltreatment differently than the proposed rule.) (§ 1324.402(a)).
- Create precise, standardized service eligibility criteria (§ 1324.402(a)).

- Create clear and specific parameters of the settings, locations, and types of perpetrators for which maltreatment will be investigated and establish processes to ensure they are implemented consistently across the state's APS programs. (§ 1324.402(a))
- Establish a standardized and systematic approach to investigations of adult maltreatment, from initiation of a case through post-investigation services (§ 1324.403).
- Establish and manage a tiered risk-based assessment system to differentiate between cases that represent immediate risk (defined as those that are life-threatening or likely to cause irreparable harm or significant loss of income, assets or resources) and those that do not. The proposed rule further establishes that responses to reports of maltreatment representing immediate risk should occur within 24 hours. Responses to reports assessed to represent non-immediate risk should occur within seven calendar days. ((§ 1324.402(a)).
- Establish mechanisms to coordinate with other entities to detect, prevent, address, and remedy adult maltreatment. These entities include but are not limited to state Medicaid agencies, state nursing home licensing and certification, state department of health and licensing and certification agencies (§ 1324.406).

How to Provide Feedback

ACL seeks feedback from all who are seeking to improve implementation of APS programs. Input from the aging and disability networks, as well as the people served by APS programs, is particularly crucial. Comments can be submitted:

- Online at [Regulations.gov](https://www.regulations.gov). (Enter "2023-19516 " in the search bar, select ACL's proposed rule, and then click the blue "comment" box at the top left of the page.)
- By mail to:
HHS Administration for Community Living
Administration on Aging
Attention: Stephanie Whittier Eliason
330 C Street SW, Washington, DC 20201

Comments will be accepted for 60 days, starting on September 12.

Learn More

- An informational webinar will be held on Monday, September 18 at 11:30 a.m. (Eastern). For details, please see the [Zoom registration page](#).
- The [complete proposed rule](#) can be found on the website of the Federal Register.
- Links to the above, along with this fact sheet and other materials as they are developed can be found at [ACL.gov/APSrule](https://acl.gov/APSrule).