



LeadingAge Kansas Comments on RIN 0985–AA18 Proposed Adult Protective Services Functions and Grant Programs

LeadingAge Kansas is the state association for not-for-profit and mission-focused aging services. We have 150 member organizations across Kansas, which include not-for-profit nursing homes, retirement communities, hospital long-term care units, assisted living, home plus, senior housing, low-income housing, home health agencies, home and community-based service programs, PACE and Meals on Wheels. Our members serve more than 25,000 older Kansans each day and employ more than 20,000 people across the state. We are supportive of establishing a federal minimum floor for state Adult Protective Services (APS) agencies to work off.

Historically, our providers have faced difficulty working with the APS office in Kansas for residents who are admitted without a durable power of attorney (DPOA) or guardian to assist the resident in signing agreements and receiving services. While the APS office does not directly oversee the guardianship program in Kansas, they are a significant key to coordinating and initiating that process for our providers serving residents without any support system. Without an APS referral, the financial cost of initiating the guardianship services can fall on the provider facility if no other individuals are available or interested in pursuing guardianship. We are supportive of the rule outlining expectations for APS to support this coordination of service to ensure residents do not go without adequate support due to financial barriers.

Further, providers have difficulty in having reports of financial abuse responded to when a resident is living in the facility, but the perpetrator is outside the facility (a family member or DPOA). This places providers in a difficult position as to whether to continue services for a resident when they are not receiving payment and have no recourse to ensure the issue will be corrected through the APS process. The statements providers have typically received in these situations are centered around APS believing no danger exists since the resident and perpetrator are not residing in the same place. We would be supportive of expanding the definition of abuse or maltreatment to relationships of trust where the alleged victim is at risk of harm from the perpetrator to be inclusive of situations such as this. While a resident may be residing in a facility and not directly living with the individual exploiting them financially, the financial exploitation can lead to non-payment at the facility resulting in discontinuation of services and discharge for the resident. Earlier intervention in these situations can prevent further harm to residents.

Recently, one of our members experienced a resident being removed from the facility by one of their DPOAs, who was also the resident's child. There was a dispute between the resident's two other children who were also the resident's DPOAs and were not in favor of the resident returning to their sibling's home due to suspected financial abuse. Our provider called the police and made a report to APS due to the removal. The provider stated APS did one follow-up check at the home and stated the resident appeared in good health and they wished to remain where they were. The concern is while the resident was staying at the provider facility, there was a certificate stating the resident was not competent to

make her own choices. However, APS did not seem to factor this certificate of determination into their process.

We believe holding APS agencies to timelier responses, such as the one described above, can be beneficial to urgent situations. We are supportive of requiring an after-hours emergency number for police and mandated reporters to utilize in unique situations that require a timelier response. Further, we are supportive of expanding investigation services to be more comprehensive than a one-time check.

Summary and Conclusion

We are supportive of the proposed rule to establish minimum services being provided by APS agencies across the country. Further, we would like to see the rule clarify or enhance the following provisions:

1. Outlining expectations for APS agencies to screen in reports related to coordination of services, such as guardianship referrals.
2. Expanding the definition of abuse or maltreatment to relationships of trust where the resident is residing in a facility but still experiencing financial exploitation by an individual outside the facility.
3. Requiring an after-hours emergency number for police and mandated reporters, such as facility providers, to utilize in unique situations that require timelier response.
4. Expanding investigation services to be more comprehensive such as more than a one-time well check.