

## **Section X**

# **INCIDENT REPORTING POLICY and COMPLAINT PROCEDURE**

## **Introduction**

As part of its obligation to promote the well-being of every participant being served, the Nursing Home Transition and Diversion (NHTD) waiver must assure safeguards are in place to prevent, to the extent possible, circumstances/situations that can result in harm to the participant. The following process serves to identify, investigate and remedy potentially harmful situations and minimize the possibility of recurrence.

## **Incident Reporting Policy**

This Incident Reporting Policy defines the type of incidents that must be reported and the process all waiver service providers must follow for reporting, investigating, reviewing and tracking the two categories of incidents involving waiver participants:

1. Serious Reportable Incidents (SRI); and
2. Recordable Incidents

The Quality Management Specialist (QMS) is the administrator of the Serious Reportable Incident process assuring the process is initiated, investigated and completed in a timely manner, outcomes are appropriate and waiver service provider follow-up is conducted. This section also defines the responsibilities of the Regional Resource Development Specialist (RRDS), Service Coordinator and other waiver service providers, and DOH Waiver Management staff (WMS) in the investigation process.

The waiver service provider will be responsible for the management of Recordable Incident reports and related investigation processes.

## **Background and Intent**

The DOH WMS must be informed of Serious Reportable Incidents and the providers' response to these incidents in order to:

1. Assist the DOH WMS in their role as a single state Medicaid agency responsible for ensuring the quality of care provided to participants and to maintain the participant's health and welfare as set forth in the NHTD Waiver application approved by CMS;
2. Assist the DOH WMS to identify specific areas of concern or trends related to incidents. This information assists the DOH WMS in identifying and developing training and policies aimed at increasing provider skills in the prevention, identification, and investigation of incidents; and
3. Assist providers to identify trends in incidents within their agencies; take corrective measures to minimize the probability of a recurrence; and to develop and implement appropriate provider level interventions (e.g. staff training programs).

## **Serious Reportable Incidents (SRI)**

Serious Reportable Incidents (SRI) are defined as any situation in which the participant experiences a perceived or actual threat to his/her health and welfare or to his/her ability to remain in the community. These incidents must be reported to DOH WMS through the QMS assigned to that region using the process outlined in this section of the Program Manual. Some of these incidents must also be reported to Adult Protective Services and/or the police.

Classifications of SRI include:

1. Allegations of Abuse and Neglect are defined as the maltreatment or mishandling of a participant which would endanger his/her physical or emotional well-being through the action or inaction of anyone, including but not limited to, any employee, intern, volunteer, consultant or contractor of any waiver service provider, or another waiver participant, family member, friend, or others, whether or not the participant is or appears to be injured or harmed.

The types of allegation(s) of abuse and neglect must be classified in the SRI report as one of the following:

- a. Physical Abuse is defined as physical actions such as hitting, slapping, pinching, kicking, hurling, strangling, shoving, unauthorized or unnecessary use of physical interventions, or other mishandling of a participant. Physical contact that is not necessary for the safety of the person and causes discomfort to the participant or the use of more force than is reasonably necessary is also considered to be physical abuse.

Emergency situations where physical intervention is used to assure the health and welfare of the participant or others must also be reported as a Serious Reportable Incident.

- b. Sexual Abuse is defined as any sexual contact between a participant and any employee, intern, volunteer, consultant or contractor of the waiver service provider providing services to the participant. Sexual abuse may also occur with any other person living in the community if it is non-consensual or if, according to New York State law, the participant is not competent to consent. Sexual contact is defined as the touching or fondling of the sexual or other body parts of a person for the purpose of gratifying the sexual desire of either party, whether directly or through clothing. Sexual contact also includes causing a person to touch someone else for the purpose of arousing or gratifying personal sexual desires. Forcing or coercing a participant to watch, listen to, or read material of a sexual nature is also considered sexual abuse. A situation in which one participant has a sexual contact with another participant, who is either not capable of consent to or did not agree to participate in the relationship, is considered to be a Serious Reportable Incident.
- c. Psychological Abuse is defined as the infliction of anguish, emotional pain or distress. Emotional or psychological abuse includes but is not limited to verbal assaults, insults, threats, intimidation, ridicule, humiliation, scorn, contempt, dehumanization or harassment, or are otherwise denigrating or socially stigmatizing. Manipulation, treating an adult like an infant, isolating an individual from family, friends or regular activities, and enforcing social isolation are further examples. The use of language and/or gestures and a tone of voice, such as screaming or shouting at or in the presence of a participant, may in certain circumstances, constitute psychological abuse.
- d. Seclusion is defined as the placement of the waiver participant alone in a locked room or area from which he/she cannot leave at will, or from which his/her normal egress is prevented by someone's direct and continuous

physical action.

The act of seclusion should not be confused with a limited quiet time procedure. Quiet time is a procedure in which a waiver participant is accompanied by staff away from an activity for a brief period of time to help the participant recompose him/herself. In addition, the participant may request time alone for this same purpose. In removing the participant from ongoing activity, the objective is to offer a changed environment in which the individual may calm down. The use of quiet time is not considered to be an incident unless it is excessive or used as a punishment.

- e. Use of Aversive Conditioning is defined as the use of unpleasant or uncomfortable procedures when trying to change the behaviors of a participant.
  - f. Violation of Civil Rights is defined as action or inaction that deprives a participant of the ability to exercise his or her legal rights, as articulated in State or federal law (e.g., the Americans with Disabilities Act).
  - g. Mistreatment is defined as a deliberate decision to act toward the participant in a manner that goes against that person's individual human rights, the Service Plan, or in a manner that is not generally considered acceptable professional practice.
  - h. Neglect is defined as a condition of deprivation in which a participant's health and welfare is jeopardized because of inconsistent or inappropriate services, treatment or care which does not meet their needs, or failure to provide an appropriate and/or safe environment. Failure to provide appropriate services, treatment or medical care through gross error in judgment and inattention is considered to be a form of neglect. For example, neglect occurs if a Service Coordinator is aware that an agency listed in a Service Plan cannot provide the requested services, but does not seek an alternate waiver service provider to meet the participant's needs.
  - i. Exploitation (financial or material) is defined as the illegal or improper use of an individual's funds, property, or assets. Examples include, but are not limited to, cashing an individual's checks without authorization or permission; forging an individual's signature; misusing or stealing an individuals' money or possessions; coercing or deceiving an individual into signing any document (e.g., contracts or will); and the improper use of guardianship, conservatorship or power of attorney.
2. Missing Person is defined as unexpected absence of a participant from his/her home or scheduled waiver service. When the absence of a participant constitutes a recognized danger to the well being of that individual or others, a formal search must be initiated immediately. This includes contacting informal supports, the Service Coordinator (if not the one discovering the participant's absence), and the police.

For those not considered in immediate danger to self or others, consideration should be given to the missing person's habits, deficits, capabilities, health problems, etc. in making the decision of when to begin a formal search, but this must be initiated no more than 24-hours after discovery that the participant is

missing.

3. Restraint is defined as the act of limiting or controlling a person's actions or behavior through the use of any device which prevents the free movement of any limb; any device or medication which immobilizes a person; any device which is ordered by a physician for the expressed purpose of controlling behavior in an emergency; or any medication as ordered by a physician which renders the participant unable to satisfactorily participate in services, community inclusion time or other activities.

**Note:** This does not preclude the use of mechanical supports to provide stability necessary for therapeutic measures such as immobilization of fractures, administration of intravenous fluids or other medically necessary procedures.

4. Death of a Waiver Participant is defined as any cessation of life, regardless of cause. The follow-up report of the investigation submitted to the QMS must include information concerning the death, and if obtainable medical records, death certificate, police reports, autopsy reports, EMS records, emergency room records and any other information deemed relevant.

5. Hospitalization is defined as any unplanned admission to a hospital as a result of an accident/injury or non-accident (e.g. medical condition) to the participant.

**Note:** The planned overnight use of a hospital for any procedure is not considered a Serious Reportable Incident, but should be noted in the subsequent Revised Service Plan, and is considered to be a Recordable Incident.

**Note:** Select either "Hospitalization" (#5) OR "Medical Treatment Due to Accident or Injury" (#9), but not both.

6. Possible Criminal Action is defined as any action by a participant that is or appears to be a crime under New York State or federal law.

7. Medication Error/Refusal is defined as any situation in which a participant experiences marked adverse reactions which threaten his/her health and welfare due to: refusing to take prescribed medication; taking medication in an incorrect dosage, form, or route of administration; taking medication on an incorrect schedule; taking medication which was not prescribed; or, the failure on the part of the staff of a provider of waiver services to properly follow the plan for assisting the participant in self-medication.

8. Medical Treatment is defined as any medical intervention(s) provided as a direct result of an accident/injury or non-accident (e.g. related to a medical condition) to the participant, regardless of whether hospitalization is required or not. This includes the use of an Emergency Room.

**Note:** Select either "Medical Treatment Due to Accident or Injury" (#9) OR "Hospitalization" (#5) but not both.

9. Sensitive Situation is defined as any situation which needs to be brought to the attention of DOH WMS through the QMS, as expeditiously as possible, and does not fit within the categories described above. This includes any situation that would threaten the participant's ability to remain in the community or the health and welfare of the participant, such as the admission to a psychiatric facility/unit or

substance abuse facility/unit.

## **Serious Reportable Incident Reporting Procedure**

### **Reporting Responsibilities**

Just as a variety of individuals associated with a waiver service provider may be involved in an alleged SRI they may also be a witness of such actions. The requirements for reporting this event also takes into account that the actual witness is obligated to inform his/her supervisor. In such cases the supervisor may be the one to report the alleged Serious Reportable Incident to the QMS.

In situations where only a family member or other informal support has witnessed the SRI or when there were no witnesses to the incident, the waiver service provider employee, who was made aware of the incident or his/her supervisor is responsible for filling out the reporting form and is considered to be the discoverer of the incident.

Regardless of who reports the incident, the QMS will assign the responsibility for the investigation to the waiver service provider agency whose employee was allegedly involved. If the incident does not involve a waiver service provider's employee, the QMS has the discretion to assign the responsibility of the investigation to any of the participant's waiver service providers or to undertake the investigation themselves.

If the QMS is concerned that the waiver service provider responsible for investigating the SRI is not in a position to conduct an objective, thorough investigation, the QMS has the discretion to assign the responsibility of the investigation to another provider or to undertake the investigation themselves. QMS must notify DOH WMS for technical assistance when there are any concerns regarding the investigation of a SRI.

**Note:** In the event an employee of an Assistive Technology, Community Transitional Services (CTS), Congregate Home and Delivered Meals, Environmental Modification or Moving Assistance provider witnesses an incident or has any concerns involving the participant, that employee must notify his/her agency's supervisor. The supervisor is responsible to contact the Service Coordinator (SC) to report the alleged incident.

All providers of Assistive Technology (AT), Community Transitional Services (CTS), Congregate Home and Delivered Meals, Environmental Modification (E-mods) and Moving Assistance must inform all subcontractors used of their responsibility to report any witnessed or suspected incident involving a waiver participant to the waiver service provider supervisor. Upon notification by any subcontractor, these waiver service provider supervisors must proceed with the same SRI reporting protocol as in the paragraph immediately above.

In the event an incident is witnessed by an employee of a Home Visits by Medical Personnel provider, that employee must notify the SC directly.

Upon notification by any of these providers, the SC becomes the 'discoverer' of the incident and is responsible to initiate the reporting process with QMS.

**Note:** Providers of AT, E-mods, Congregate and Home Delivered Meals and Home Visits by Medical Personnel will not be assigned the responsibility of investigating any allegations of a SRI unless they provide other services for which they are responsible for investigating incidents.

## Procedure

**Note:** All forms used in the Serious Reportable Incident (SRI) procedure can be found in Appendix E - forms SRI.1 to SRI.6 of this Program Manual.

1. Within two (2) hours of discovering a SRI has occurred, the discovering waiver service provider, SC, RRDS or DOH must notify the QMS via telephone or email, then complete and forward the “**Initial Report**” form. A copy of this form must be sent to the RRDS and SC by the discoverer.

If the incident involves any type of abuse listed or the death of a participant, the QMS must notify DOH WMS by the next business day via phone, also providing a copy of the “**Initial Report**” form. Upon request of DOH WMS, QMS will provide copies of any other forms related to the incident to DOH WMS.

When appropriate, any waiver service provider or waiver entity may contact Adult Protective Services (APS) related to an alleged incident involving a waiver participant at any time during the Serious Incident Reporting process. In addition, a waiver service provider, SC, RRDS or QMS must assure the participant is reminded of his/her right to notify the police as appropriate. The QMS will assure that any known contact made by the provider with APS or with the police has been appropriately documented on the “Initial Report”, “24-Hour Provider Report”, “Provider Follow-Up Report”, or subsequent “Provider Follow-Up Reports”.

2. Within twenty-four (24) hours of discovery, the reporting waiver service provider must complete and send the “**24-Hour Provider Report**” to QMS. The QMS will forward a copy of the report to the RRDS and SC.

**Note:** If the SC is alleged to be involved in the incident, the “**24-Hour Provider Report**” is sent to the Service Coordination Supervisor.

**Note:** If the ‘discoverer’ of the incident is DOH WMS or RRDS, the QMS will assign completion of the “**24-Hour Provider Report**” to a waiver service provider.

3. Upon receipt of the “**24-Hour Provider Report**” form, the SC must contact the participant and/or legal guardian and informs him/her that an investigation is under way. In addition, the SC must notify any other waiver or non-waiver provider currently involved in the Service Plan (SP) when there is visible evidence of injury to the waiver participant or when the incident or response to the incident may impact services or activities. Consideration of the individual’s privacy should be balanced against the need to notify only service providers who need to know for the purpose of service delivery. Contact with the waiver participant and/or legal guardian and/or other waiver service providers must be documented using the “**Service Coordinator 24-Hour Notification Report**”. The SC sends this report to the QMS.

**Note:** If the SC is alleged to be involved in the incident, the Service Coordination Supervisor is responsible for contacting the participant and following Step #3 above.

**Note:** All waiver providers must assure that during the investigation, if the person alleged to be involved in the incident directly serves the participant (e.g. the SC), he/she must not continue to serve the participant. The agency’s supervisor must work with the participant to assure selection of an alternate individual to work with the participant. In addition, the participant must be offered the choice to select a

different provider if one is available.

4. Within twenty-four (24) hours of receiving the “**24-Hour Provider Report**” form, the QMS will review the form and then complete the QMS “**Initial Response**” form. The QMS assigns an incident number to the incident and enters it onto the form. This number must be included in all future reports and correspondence relating to the incident.

a. Assigning a number to an incident:

Each incident number consists of four sets of numbers, each series being separated by a dash ( - ):

- A two digit number indicating the Recipient/Exception code (e.g. code 60 for NHTD waiver participant);
- a four digit number indicating the year of the incident (e.g. 2008);
- a two digit number indicating the RRDC region (e.g. 09); and
- a three digit number assigned to the specific incident.

Numbers start at 001 for each RRDC region and continue in consecutive order from January to December.

Each RRDC Region is assigned a two-digit code number as follows:

- 01 Long Island
- 02 New York City
- 03 Unused
- 04 Lower Hudson Valley
- 05 Capital Region
- 06 Adirondack
- 07 Syracuse
- 08 Southern Tier
- 09 Rochester
- 10 Buffalo

Example: An incident in the NHTD waiver occurred in the Hudson Valley region in 2008 and is the 7<sup>th</sup> incident reported to that region. The QMS for that region creates an incident number as follow: 60-2008-04-007.

b. Classification and Category Verification

The QMS will document on the QMS “**Initial Response**” form acceptance of the original classification or, if indicated, the re-classification of the incident.

**Note:** In the event the QMS determines that the incident does not meet the definition of a SRI and re-categorizes the incident as a Recordable Incident, this must be noted on the QMS “**Initial Response**” form. In this instance, the case is considered CLOSED. The QMS also completes the QMS “**Status Report**” form.

The QMS will notify the participant via telephone that the incident has been closed and the reason why. This contact must be documented by the QMS “**Status Report**” form.

QMS provides a copy of the QMS “**Initial Response**” and the QMS “**Status Report**” forms to the reporting agency, RRDS and Service Coordinator.

c. Assigning Investigation

QMS will determine which waiver service provider will be responsible for conducting the investigation and will contact the provider agency to discuss the provider's plan for investigating the incident. The QMS will provide technical support to the waiver service provider and may request assistance from DOH in the process, if necessary. The QMS will document contact on the QMS "**Initial Response**" form and provide the dates of the expected seven (7) calendar day and thirty (30) calendar day Follow-Up Reports. A copy of the QMS "**Initial Response**" form is provided to the waiver service provider assigned to the investigation, the reporting provider, RRDS and SC by QMS.

**Note:** Providers of Assistive Technology, Environmental Modifications, Congregate and Home Delivered Meals and Home Visits by Medical Personnel will not be assigned the responsibility of investigating any allegations of a Serious Reportable Incident unless they provide other services for which they are responsible for investigating incidents.

5. QMS will forward the QMS "**Initial Response**" form and the "**24-Hour Provider Report**" form to the investigating waiver service provider, sending a copy to the discovering provider (if different from the investigating waiver service provider), RRDS and Service Coordinator.
6. The investigating provider must assign an appropriate individual from the waiver service provider agency or may choose to contract with another agency to conduct the investigation. At the same time, the investigating provider must notify its Serious Incident Review Committee (SIRC) (refer to the section below - Provider's Serious Incident Review Committee) that there has been an allegation and the investigation has been assigned (refer to "Investigation of Serious Reportable Incidents" in the section to follow).
7. Within seven (7) calendar days of receiving the QMS "**Initial Response**" form and the "**24-Hour Provider Report**" form, the investigating waiver service provider must complete and submit the "**Provider Follow-Up Report**" to the QMS including all formal investigating agency reports, interview statements, and any contact made with the SIRC. The QMS must forward a copy of the "**Provider Follow-Up Report**" to the RRDS and the SC.
8. Within seven (7) calendar days of receiving the "**Provider Follow-Up Report**", the QMS will make the decision whether to close the case or leave it open for further investigation, using the RRDS for consultation as needed. The QMS will complete the QMS "**Status Report**" indicating whether the case:
  - 1) is re-classified (with explanation);
  - 2) remains open (and the reason why); and/or
  - 3) is closed.

If left open for further investigation, the investigating waiver service provider must continue the investigation process and prepare information for submission of the completed "**Provider Follow-Up Report**" (30-day).

The QMS must send a copy of the report to the RRDS, the SC and the investigating provider.

9. Within thirty (30) calendar days of receiving the original QMS “**Initial Response**” and the “**24-Hour Provider Report**” forms, the investigating waiver service provider must submit the next “**Provider Follow-Up Report**” to QMS for review, with copies of all reports, statements, and supporting documentation attached. The QMS will forward the report to the RRDS and the SC.
10. Within seven (7) calendar days of receipt of the “**Provider Follow-Up Report**” form, the QMS will make the decision whether to close the case or leave the case open for further investigation, using the RRDS for consultation as needed. The QMS will complete the QMS “**Status Report**” indicating whether the case:
  - 1) is re-classified (with explanation);
  - 2) remains open (and the reason why); and/or
  - 3) is closed.

The QMS must send a copy of the report to the RRDS, the SC and the investigating provider.

11. If further investigation is deemed appropriate by the QMS, the “**Provider Follow-Up Report**” must continue to be submitted by the investigating waiver service provider monthly by the anniversary date of the discovery of the incident until the QMS determines the case to be ‘closed’. A copy of each report is forwarded to the RRDS and SC by QMS. When the case is deemed closed, QMS must complete the QMS “**Status Report**”, sending a copy to the RRDS, the Service Coordinator and the investigating provider.

If the case is re-classified, the investigation must continue under the same protocol as if open, until the QMS can determine that the investigation has been completed and the case can be closed.

12. Once the investigation is closed, the QMS must notify the participant via telephone that the investigation has been completed. Although details of the investigation are not disclosed, the final outcome is provided to the Participant/Legal Guardian. This contact is documented by the QMS on the QMS “**Post-Investigation Follow-Up Contact With Participant**” form.
13. Any further contact with the participant will be made at the discretion of the QMS depending on the type and outcome of the investigation. When indicated, QMS will consult with the RRDS and/or DOH WMS to determine what, if any additional contact needs to be made. The QMS will document all contacts on the QMS “**Post-Investigation Follow-Up With the Participant**” form.
14. The QMS must maintain an Incident database, tracking all incidents reported. The QMS must also maintain all documentation related to the SRI in a separate file.
15. The RRDS must also maintain copies of all documentation related to SRI in a file separate from the participant’s record and easily available to DOH WMS upon request.
16. If at any time during the procedure for SRI a waiver service provider does not comply with time frames outlined for reporting and/or has failed to comply with necessary documentation requirements, the QMS will notify DOH WMS. This may include, but is not limited to, the waiver service provider’s failure to submit any of

the required documents to the QMS (e.g. the seven (7) or thirty (30) day “Provider Follow-Up Report”, etc). DOH WMS will determine what actions must to be taken including the need to place the waiver service provider on Vendor Hold and if so, will a send the Notice of Vendor Hold to the provider agency’s Executive Director. The Notice of Vendor Hold will outline the need for immediate attention to the incident and a plan of action by the waiver service provider which will include information to correct the situation and ensure such delays do not occur in the future.

17. If there are extenuating circumstances as to why the SRI procedures were not followed, a representative from the waiver service provider agency’s administration is required to contact the QMS prior to the procedural deadlines to discuss the situation. The QMS will make the determination whether the situation warrants an extension of the policy and will notify DOH WMS of all such decisions.
18. When the waiver provider agency submits all necessary SRI documentation and a plan of action approved by DOH WMS and the QMS, the Vendor Hold process will be stopped via a letter from DOH WMS.
19. Should the waiver provider agency fail to submit the necessary SRI documentation and an acceptable plan of action within seven (7) calendar days of the Notice of Vendor Hold, the QMS will notify DOH WMS. DOH WMS will issue a Notice of Disenrollment to the waiver provider agency Executive Director indicating that due to continued non-compliance with the SRI Policy and Procedure, the waiver service provider will be disenrolled from the NHTD waiver sixty (60) calendar days from the Notice date.
20. If at any time during this process, the provider agency complies with all policy and procedures, as related to SRI, and submits an acceptable plan of action approved by DOH WMS and the QMS, DOH WMS will determine whether the disenrollment process may be stopped and will send written notification to the waiver service provider’s Executive Director.

### **Investigation of Serious Reportable Incidents**

The waiver service provider assigned by the QMS must designate at least one individual to be responsible for conducting a thorough and objective investigation. The investigator is required to have experience and/or training in conducting investigations.

A waiver service provider may choose to contract with another agency to perform the investigation. However, the contracted agency must not have any involvement or stake in the outcome of the investigation. The decision of the contracted agency is binding on the investigating agency. The results of the investigation are presented to the SIRC, which will determine if the investigation is complete, the appropriate action to take and the necessary follow-up.

People conducting the investigation must not include:

- Individuals directly involved in the incident.
- Individuals whose testimony is incorporated in the investigation.
- Individuals who are supervised by the person alleged in the investigation, spouse, significant other or immediate family member of anyone involved in the investigation.

The investigative report of a SRI must contain the following information:

1. A clear and objective description of the event under investigation. This must include a description of the alleged victim, all people involved in the alleged incident, the names of all witnesses and the time and place the incident occurred;
2. Details of structured interviews with all individuals involved in the events and all witnesses;
3. Identification of whether this was a unique occurrence or if there is a pattern of such incidents believed to be related to previous activities or reported incidents;
4. The investigator's conclusions if the allegation is substantiated, unsubstantiated or whether no definitive conclusions can be reached. The reasoning behind this decision must be included; and
5. The investigator's recommendations for action(s). The action(s) may be directed towards individual employees or the participant, and/or may address larger program concerns such as training, supervision or agency policy.

If a participant is alleged to have abused another participant or member of the community (including staff), it is necessary for the investigation to take into consideration the aggressor's cognitive abilities to make a judgment about these actions when the interventions are established following investigation of the incident.

### **Investigations by DOH**

As described in the NHTD Waiver Provider Agreement, DOH and its representative(s) (i.e., the QMS, RRDS or others identified as such by the DOH WMS) have the authority to investigate the conduct, performance and/or alleged neglect of duties of administrators or employees of any agency serving as a NHTD waiver service provider. This level of intervention will occur when there are concerns that the provider has not followed the procedures described in this policy. If the provider is found to have failed to comply with the SRI procedures described in this Program Manual, DOH will take appropriate action.

DOH will work cooperatively with other State agencies that provide services to individuals with disabilities, informing them when mutual providers experience significant or numerous SRI.

Any employee under investigation for Serious Reportable Incidents by DOH or another State agency is not permitted to provide service to any NHTD waiver participant.

### **Provider's Serious Incident Review Committee**

**Note:** Providers of AT, E-mods, Congregate and Home Delivered Meals and Home Visits by Medical Personnel will not be assigned the responsibility of investigating any allegations of a SRI unless they provide other services for which they are responsible for investigating incidents.

#### **1. Organization and Membership of the Serious Incident Review Committee**

- The Committee may be organized on an agency-wide, multi-program or program-specific basis.

- The Committee must contain at least five individuals. Participation of a cross section of staff, including professional staff, direct care staff and at least one member of the administrative staff is strongly recommended.
- The Executive Director of the agency shall not serve as a member of the Committee but may be consulted by the Committee in its deliberations.
- The Program Administrator for NHTD Waiver services may be designated as a member only if the Committee is an agency-wide or multi-program committee.
- The individual assigned to conduct investigations for the agency can be part of the Committee, but may not serve on the Committee at the same time he/she is involved in an active investigation for the agency.
- The Committee must meet at least quarterly, and always within one (1) month of a report of a SRI involving a NHTD waiver participant.

## 2. **Responsibilities of the Serious Incident Review Committee**

This Committee is responsible for reviewing the investigation of every SRI. The SIRC will evaluate whether the investigation has been thorough and objective. It will determine if the conclusions and recommendations of the investigator are in line with generally accepted professional standards and are in compliance with the guidelines of the NHTD waiver.

In addition, the Committee will:

- a. Assure that the providers' Incident Reporting Policies and Procedures comply with DOH NHTD Incident Reporting Policy as detailed in this Program Manual.
- b. Review all SRI and Recordable Incidents to assure that incidents are appropriately reported, investigated and documented.
- c. Ascertain that necessary and appropriate corrective, preventive, and/or disciplinary action has been taken in accordance with the Committee's recommendations. If other actions are taken, the Committee must document the original recommendations and explain why these recommendations were revised.
- d. Develop recommendations, if warranted for changes in provider policy and procedure to prevent or minimize the occurrence of similar situations. These recommendations must be presented to the appropriate administrative staff.
- e. Identify trends in SRI (by type, client, site, employee, involvement, time, date, circumstance, etc.), and recommend appropriate corrective and preventive policies and procedures to the agency administration.
- f. Report annually to QMS regarding SRI, Recordable Incidents and all corrective, preventive and/or disciplinary actions taken pertaining to identified trends. This report must include the name and position of each of the members of the committee and documentation of any changes in the membership during the reporting period). This report will be submitted to the QMS in each agency's region where the provider is authorized to provide

waiver services by January 31 of each year for the prior year. A copy is also provided to the appropriate RRDS by the agency for further review, regional trend analysis and recommendations for interventions. QMS forwards the report with analysis to DOH WMS for further review. DOH may request reports at any time.

### **3. Documentation of Serious Incident Review Committee Activity**

- The chairperson shall ensure that minutes are kept for all meetings and maintained in one location.
- Minutes are to be maintained in a manner that ensures confidentiality.
- Minutes addressing the review of SRI shall state the identification number of the incident (provided by QMS and the participant's CIN, a brief summary of the situation that caused the report to be generated (including date and type of incident), Committee findings and recommendations, and actions taken on the part of the agency/program as a result of such recommendations.
- DOH may request to review minutes at any time.

All information regarding SRI reports, including but not limited to the information collected to complete the investigation and the investigation report and minutes of the standing SIRC, must be maintained separately from the participant's records.

### **Recordable Incidents**

**Note:** Providers of AT, E-mods, Congregate and Home Delivered Meals and Home Visits by Medical Personnel will not be assigned the responsibility of investigating any allegations of a SRI unless they provide other services for which they are responsible for investigating incidents.

Recordable Incidents are defined as incidents that do not meet the level of severity described as SRI, but which adversely affects the participant's life in the community. An example of these incidents is a fall that does not require medical attention. These Recordable Incidents do not need to be reported to DOH. However, Recordable Incidents must be investigated by the provider and included in the annual report prepared by the Serious Incident Review Committee provided to QMS. DOH WMS reserves the right to review Recordable Incidents at any time.

Provider policies and procedures regarding Recordable Incidents must include an explanation or identification of the:

1. Title or position of the individual(s) responsible for implementing these policies;
2. Process for reporting, investigating and resolving Recordable Incidents within the agency;
3. Process for identifying patterns of incidents which involve a specific participant or staff within the agency that threaten the health and welfare of participants in general;
4. System for tracking the reporting, investigation and the outcome of all Recordable Incidents which includes:
  - Name of the waiver Participant involved
  - Date(s) of the incident

- Time incident occurred
  - Type or description of Incident
  - Action(s) taken by the provider including making recommendations for changes in policies and procedures
  - Provider staff or others involved
5. Criteria used to determine when a Recordable Incident should be upgraded to a Serious Reportable Incident to be reported to DOH WMS.

### **Waiver Service Provider's Internal Complaint Procedure**

Each waiver service provider must develop and implement a process for responding to complaints made by participants or other(s) on his/her behalf (e.g. guardian, family members or advocates). This process must be clearly written, easy to navigate and provided to the participant.

The complaint policy must include:

1. A description of how to register a verbal or written complaint, that registering a complaint in no way jeopardizes his/her right to receive services, who is responsible to receive and respond to the complaint, and a time frame for making initial contact with the participant (within seventy-two (72) hours) upon receipt of complaint;
2. A time frame for completing a complaint investigation and providing a written response to the complainant (maximum of thirty (30) calendar days from receipt of initial complaint);
3. An appeals process, including timeframes, if the person who registered the complaint is not satisfied with the response (to be completed in no more than fifteen (15) calendar days from notice from the complaint);
4. Additional appeals process, in which the complaint is forwarded to the provider agency's governing authority for review and recommendations (to be completed in no more than fifteen (15) calendar days from receipt of the information); and
5. Notification to the participant of his/her right to contact the RRDS if not satisfied with the outcome of the agency's response.

The RRDS may utilize the QMS for technical assistance as needed. If the RRDS is not able to resolve the difficulties, the RRDS forwards the matter to the DOH WMS for review and final resolution.

**Note:** At any time, the participant has the right to notify his/her SC regarding registering of a complaint with a provider agency. The participant may request that the SC act as advocate for the participant assisting him/her through the complaint process with the provider agency. The SC and/or participant may contact the RRDS for assistance when the appeals process does not lead to a satisfactory resolution.

There may be times when a complaint must be converted to a Serious Reportable or Recordable Incident report. A provider must inform the individual filing the complaint that this has occurred, the reason for converting the complaint, and documents the incident

review process.

Information regarding complaints must be made available to DOH WMS upon request and to DOH during survey of the agency.