



Adults with Cognitive and Physical Disabilities Services

*An Office of the
Department of Health and Human Services*

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Adult Protective Services 2009 Annual Report

Developmental Services

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APS Report/Data Summary January through December, 2009

Adult Protective Services Unit

The Adult Protective Services Unit (APS) has been in operation since October 2003 investigating allegations of abuse, neglect and exploitation of eligible Developmental Disability adult consumers. The investigative and protective activities of APS are governed by the Maine Revised Statute Title 22, Chapter 958-A: Adult Protective Services Act and Chapter 12, the *Regulations Governing Reportable Events, Adult Protective Investigations and Substantiation Hearings Regarding Persons with Mental Retardation or Autism*.

The goals of APS are to investigate allegations of abuse, neglect and exploitation, to provide information about services to vulnerable adults who are victims of mistreatment and to increase the reporting of suspected abuse, and to provide training and supports to Agency Investigators. State wide coverage is accomplished with six full time and one part time APS Investigator and one full time APS Manager. Two APS Investigators resigned during calendar year 2009; their positions filled within three months. The unit has been able to meet its adult protective responsibilities with temporary staff re-assignments and limited overtime hours. We have been able to respond to every Reportable Event needing an APS investigation. In partnership with the Crisis Teams and Regional case managers, the priority of keeping consumers safe from harm or danger was maintained throughout this reporting period. However the timeliness of writing, editing Agency and DHHS Investigator reports and disseminating reports was significantly impacted by the temporary APS staff vacancies, the significant time investment of APS curriculum writing and Agency Investigator Refresher trainings, the declining timeliness of some agency investigation reports and the agency demands on the Approved Agency Investigators.

Agency Investigator Training

Over several months of dedicated time, volunteer APS Investigators, the APS Manager and University of Maine Muskie Institute staff developed a one-day APS Agency Refresher Training curriculum. Six training sessions were offered at five state-wide sites from November 3–December 15, 2009. To accommodate agencies needing additional and/or replacement Investigators, criteria was established to allow qualified new agency applicant participation in the Refresher Training. One hundred and eight (108) Agency Investigators participated in the Refresher Training along with an additional nineteen (19) new Agency Investigators bringing the total of approved Agency Investigators to one hundred and twenty seven (127). Overall participant comments were positive and results have been demonstrated in subsequent investigations and report writing.

This curriculum is the basis for the development of an expanded 2 day curriculum for new APS Agency Investigator training to be offered in 2010. Effective December 15, 2009, the current APS Investigations Report format available on the Department Web page was revised to include dropdown selections throughout the form to increase consistency and ease of use.

Data Operations

APS investigations depend on an electronic Reportable Events system. Reportable Events categories in Enterprise Information System (EIS) have remained unchanged. APS COGNOS reports, which obtain data from EIS, were the basis for this Annual Report. Extensive efforts have gone into verifying the accuracy of the data while acknowledging the possibility of undiscovered duplicates.

The Adult Protective Services Access data base tracked Level I and Level II Substantiation findings as noted in all APS Investigation Reports. The APS Manager tracked all Administrative Hearing requests for Level I appeals.

Reportable Events

APS has been integrally involved in the OACPDS Adult Protective Services Improvement Action Plan during 2009. This Bending the Curve process involves simultaneous endeavors reviewing the entire spectrum from APS Reportable Events screening identification through consumer outcomes. Completion and delivery of the APS Agency Refresher Training was part of this plan. APS drafted criteria modifying what rises to the level of an APS Reportable Event with joint meetings planned to finalize the criteria by mid 2010.

A Reportable Event may include more than one event category type on the Reportable Event Form. A Rights Violation alone would be referred to the Office of Advocacy while an allegation involving harm and a Rights Violation on the same Reportable was referred to both APS and the Office of Advocacy. During 2009, **1718 APS Reportable Events** (a 12% decline) were filed, including multiple categories on one Reportable Event, involving **903** distinct consumers compared to **1949** Reportable Events, including multiple categories on one Reportable Event, involving **1054** distinct consumers filed in 2008. One consumer in Region 2 Lewiston (2L) had nineteen APS Reportable Events filed in 2009.

Over 2007 and 2008 calendar years, there was close to a 30% increase in the number of Reportable Events involving APS matters, with one part time DHHS investigator position added to the Unit during that same time period. The number of APS Reportable Events decreased 12% from 2008 to 2009. The incidence of police involvement rose due to a significant increase of Reportable Events involving theft of consumer medications and monies, likely linked to the economy. In their role of reviewing all Reportable Events, Department Incident Data Specialists have educated agencies on filing more complete information prior to the Reportable Event being forwarded to APS. This continues to be a challenge with agency staff turnover.

For 2009, Physical or Verbal Abuse events were manually separated as they remain combined in EIS. Physical Abuse generally refers to assault, cruel punishment, infliction of injury, physical harm or pain and unreasonable confinement while Verbal Abuse refers to intimidation or emotional abuse. Those Reportable Events involving both Physical and Verbal Abuse allegations were categorized as Physical Abuse. Suicidal Ideation/Acts, Medication Related Events and Restraints reportable events were no longer routinely referred to APS unless there was an element of staff neglect, abuse or exploitation. Staff failing to administer medication in a timely manner was determined to be a medication error while staff deliberately withholding medications was considered abuse or staff stealing consumer medications was considered exploitation. When a consumer moved to a different geographic location, the Reportable Events were reflected in the Region most currently updated in EIS.

These Reportables as reported by EIS fell into the following broad categories:

Total 2009 APS Reportable Events by Category by Region

Reportable event	R 1	R 2A	R 2L	R 2R	R 3B	R 3C	Totals
Physical Abuse	102	73	59	44	82	30	390
Verbal Abuse	24	13	18	5	20	21	101
Dangerous Situation	24	10	18	6	42	13	113
Exploitation (other than sexual)	33	42	29	16	56	31	207
Serious Illness/injury	6	3	1	1	5	1	17
Neglect	122	89	72	37	167	50	537
Rights Violation	4	14	4	5	34	5	66
Sexual Abuse/Exploitation	30	33	20	14	43	30	170
Suicidal Ideation/Acts	0	1	0	0	1	0	2
Medication Related Events	8	4	2	1	6	1	22
Restraints	3	3	6	0	1	0	13
Death	22	8	11	8	18	13	80
TOTAL	378	293	240	137	475	195	1718

Investigation Process

APS Investigators screen APS Reportable Events in their geographic area throughout the workday and confer with the APS Manager. The Crisis Teams provide crisis supports for Reportable Events involving APS matters during overnights and weekends/holidays, thereafter alerting APS. When a reported allegation or event meets the definition of abuse, neglect or exploitation as set forth in Title 22 and the *Regulations* and an investigation is warranted, high and moderate priority investigations are generally assigned to the APS Investigator while low priority agency matters are assigned to Agency Investigators. Low priority community allegations are assigned to APS Investigators. The reporter is usually the first contact. If after preliminary screening it is determined that the matter has already been resolved or would better be resolved by the involved parties such as case management, the case is referred to the appropriate community resource for resolution. An APS investigation should be the measure of last resort.

The Investigation process involves gathering information about the reported event by interviewing witnesses, including the consumer when applicable, reviewing relevant documents, taking statements, and collecting other pertinent evidence and information. To obtain medical records, APS Investigators have increasingly relied on subpoenas. Law enforcement takes the lead in the majority of criminal event investigations.

Copies of all finalized APS reports were sent to the consumer or guardian unless the guardian was the subject of the investigation, to the involved Regional Office staff, the Consumer Advisory Board and the appropriate contracted agency when appropriate. Substantiation notices were sent by certified mail for all Level I and Level II findings.

2009 Assigned Reportable Events by Category and Region

Reportable event	R 1	R 2A	R 2L	R 2R	R 3B	R 3C	Totals
Physical Abuse	32	10	15	5	3	7	72
Verbal abuse	5	0	3	0	0	0	8
Dangerous Situation	5	1	5	0	1	1	13
Exploitation	10	4	13	2	5	5	39
Serious Illness/injury	1	1	0	0	0	0	2
Neglect	27	11	18	2	4	9	71
Rights Violation	1	2	0	1	1	1	6
Sexual Abuse/Exploitation	9	8	4	3	2	2	28
Suicidal Ideation/Acts	0	0	0	0	0	0	0
Medication Related Events	3	1	0	0	0	0	4
Restraints	0	1	0	0	0	0	1
Death	0	0	0	0	0	0	0
TOTAL	93	39	58	13	16	25	244

Of the 1718 total APS Reportable Events, 244 (14%) were assigned for investigation. This percentage is below the 30% previous years' average assignment rate. For the first time, the greatest assigned category was Physical Abuse followed by Neglect, which up until now was always the largest assigned category.

The nature of Reportable Events was not as serious for 2009 as in years past. Some agency reporters file a Reportable Event rather than chance that an event was not a reportable matter. APS Investigators spend a significant amount of time collecting information to clarify a Reportable Event that is screened out to be Not an APS Matter (22%). The greatest number of Reportable Events occurs in agency locations with 30% referred back to the agency for appropriate resolution. The next largest category of screened out Reportable Events involves the need for case management supports with 30% being referred to the Regional Office which also includes community case management.

2009 Unassigned Regional Events by Reason and Region

Reportable event	R 1	R 2A	R 2L	R 2R	R 3B	R 3C	Totals
Accept Provider Resolution	103	102	55	33	174	51	518
Refer to Reg. Office	104	82	75	68	137	47	513
Refer to Advocacy	1	7	11	0	20	0	39
Refer to Licensing	3	9	3	0	6	0	21
Refer to OES	1	2	2	0	0	0	5
Refer to Police	0	0	0	0	0	0	0
Not an APS Matter	73	52	36	23	122	72	378
TOTAL	285	254	182	124	459	170	1474

The table below displays the referred and assigned APS Reportable Events for 2007, 2008 and 2009.

Reportable Event Type	Referred	Referred	Referred	Assigned	Assigned	Assigned
Calendar Year	2007	2008	2009	2007	2008	2009
Physical/Verbal Abuse	0	0	0	0	0	0
P/Verbal Abuse including Assault	523	0	0	81	0	0
Physical Abuse	0	366	390	50	157	72
Verbal Abuse	0	189	101	44	38	8
Assault	0	0	0	0	0	0
Dangerous Situation	78	90	113	13	16	13
Exploitation (not sexual)	174	220	207	67	95	39
Serious Illness or Injury	50	27	17	5	4	2
Neglect	555	698	537	158	260	71
Rights Violation	68	68	66	25	18	6
Sexual Abuse/Exploit	179	196	170	46	57	28
Restraints	24	13	13	5	1	1
Medication Related Event	14	15	22	1	3	4
Death	18	55	80	4	0	0
Suicidal Attempts/Act	8	12	2	1	0	0
Total	1691	1949	1718	500 (30%)	649 (33%)	244 (14%)

Assignment of APS Reportable Events

In 2008, **1949** Reportable Events were referred to APS. Six hundred and forty-nine (33%) were assigned for investigation. With a 20% increase in filed Reportable Events alleging Neglect, assignments increased from 29% to 37% in this category from 2007 to 2008. There was a slight increase in referred Physical and Verbal Abuse Reportable Events, while there was a marked increase in assigned Physical Abuse Reportable Events. Statewide, the number of reported theft of consumer medications and funds also increased over 2008, with police involved in the majority of these investigations. The number of reported deaths tripled over 2008 though none were attributed to neglectful or abusive circumstances. Neglect has consistently been the category with the most Reportables with a high number attributed to staff sleeping while working, followed by Physical Abuse, Exploitation, Sexual Abuse/Exploitation and then Verbal Abuse. This is consistent with events filed in 2007.

In 2009, **1718** Reportable Events were referred to APS with 244 (14%) accepted for investigation. There was a 69% increase in the number of deaths from 2008 to 2009, none with suspicious circumstances. Though there were more Physical Abuse Reportable Events referred in 2009 over 2008, the nature of the allegations was minor, addressed at the agency or community level and not assigned for investigation.

Comparison of Reportable Events and APS Referrals 2004 thru 2009

*The data in the table below came from the EIS, not from previously developed APS reports.

Year	Number of APS Reportable Events	Number of APS Assigned Referrals	APS Assigned Referral Percent
*2004	1592	814	51%
*2005	1862	741	40%
*2006	1410	466	33%
*2007	1691	500	30%
2008	1949	649	33%
2009	1718	244	14%

There was a 16% increase in APS Reportables from 2006 to 2007, and another 13% increase from 2007 to 2008. By far, 2008 had the highest number of Reportable Events since the inception of APS in 2003. Looking at possible trends from 2004, assigned APS referrals from 2004 through 2006 steadily declined, with the exception of a 4% increase from 2007 to 2008 to the current assigned level of 14% for 2009. This overall assignment decline is attributed in part to the lack of severity of the reported event and the greater initial inquiries resulting in determinations that screened out events. The history of APS assignments since 2004, broken out by Region, is set forth in the chart below. In 2008, every Region, except 2L experienced an assignment increase, most notably in R1 and 3 Caribou (3C) while all Regions experienced a notable decline in assigned investigations for 2009.

For 2009, the majority of APS Reportable Events did not rise to a level that needed APS intervention. Over 60% of APS Reportable Events were referred back to the agency (518) or to the Regional Office case management (513) for follow-up.

Yearly Assignments by Region

Year	R 1	R 2A	R 2L	R 2R	R 3B	R 3C	Total
Total 2004	231	115	125	18	259	66	814
Total 2005	224	131	120	13	203	50	741
Total 2006	120	113	58	24	123	28	466
Total 2007	118	117	82	25	131	27	500
Total 2008	212	113	75	28	142	79	649
Total 2009	93	39	58	13	16	25	244

Priority of APS Assigned Referrals

The Adult Protective Services Unit categorizes cases as High, Moderate, or Low Priority based on the seriousness of the allegation. The seriousness of the allegation will take into account the subject person's capacity, dependency, danger and whether there is substantial risk of harm, and the ability/inability of the person to give informed consent to medical treatment or services if this appears necessary. By way of reminder:

- (1) **High:** High priority cases are those in which the allegation, if substantiated, would indicate that the person is in imminent risk of serious harm or immediate need of medical attention. If the person is receiving agency services, steps must be taken immediately by the agency to assure the person's safety. The APS staff will formulate a plan of action immediately with regard to the most expedient way to protect the person and assess the validity of the allegations. If the situation becomes known after regular business hours, a crisis worker will respond to assure the safety of the person pursuant to paragraph 5

above. Investigation of high priority referrals shall commence on the **day of receipt** of the referral, report or complaint.

(2) **Moderate:** Moderate priority cases are those that do not present an imminent risk of serious harm or immediate need for medical attention, but nevertheless, if not addressed, are likely to get worse without intervention and could, if continued, expose the client to serious physical injury or harm. Investigation of these cases shall be initiated within **three (3) working days** of receipt of a referral, report or complaint.

(3) **Low:** Low priority cases are all other APS reports of alleged abuse, neglect or exploitation. Investigation shall commence within **five (5) working days** of the date of the receipt of the referral, report or complaint.

In total, the **244** APS Reportable Events for **2009** were categorized as follows:

- **12 High Priority: (5%)**
- **61 Moderate Priority: (25%)**
- **171 Low Priority: (70%)**

Regional Priority Comparison from 2004 through 2009

Regional Office	Portland			Augusta			Lewiston			Thomaston/Rockland			Bangor			Caribou			Overall Total		
	H	M	L	H	M	L	H	M	L	H	M	L	H	M	L	H	M	L	H	M	L
Totals 2004	3	71	156	3	44	68	3	35	87	0	6	12	9	51	199	1	21	44	20	228	566
Totals 2005	1	68	155	4	49	78	4	43	73	1	6	6	0	50	153	1	8	41	11	224	506
Totals 2006	1	19	100	4	8	101	4	11	43	1	0	23	4	35	84	5	2	21	19	75	372
Total 2007	2	9	107	15	7	95	1	5	76	0	7	18	1	19	111	2	3	22	21	50	429
Totals 07	118			117			82			25			131			27			500		
Totals 2008	11	28	173	5	15	93	1	1	73	1	3	24	16	14	112	0	3	76	34	64	551
Totals 08	212			113			75			28			142			79			649		
Totals 2009	8	31	54	0	4	35	2	16	40	0	3	10	0	4	12	2	3	2	12	61	171
Totals 2009	93			39			58			13			16			25			244		

APS Investigation Assignments and Report Writing

Of the **244** Reportable Events assigned for investigation in 2009, **120 (49%)** were assigned to agency investigators; **124 (51%)** to DHHS investigators. This distribution is consistent with past investigation assignments noting that more investigations were assigned to DHHS Investigators.

Some Approved Agency Investigators were laid off during 2009. Other Agency Investigators took on additional responsibilities contributing to the time it took to conduct investigations and submit reports.

AGENCY & DHHS INVESTIGATION DISTRIBUTION FOR 06, 07, 08, 09

Region	Portland	Augusta	Lewiston	Rockland	Bangor	Caribou	Total	Average
Agency 06	86 of 122	19 of 112	18 of 55	4 of 254	76 of 123	7 of 29	210 of 466	38%
	73%	17%	32%	16%	62%	24%	45%	
DHHS 06	36 of 122	93 of 112	37 of 55	21 of 25	47 of 123	22 of 29	256 of 466	63%
	30%	85%	67%	84%	38%	76%	55%	
Agency 07	64 of 118	54 of 117	34 of 82	9 of 25	89 of 131	10 of 27	260 of 500	52%
	54%	46%	41%	36%	68%	37%	52%	
DHHS 07	54 of 118	63 of 117	48 of 82	16 of 25	42 of 131	17 of 27	240 of 500	48%
	46%	54%	59%	64%	32%	63%	48%	
Agency 2008	124 of 212	55 of 113	26 of 75	10 of 28	77 of 142	50 of 79	342 of 649	
	58%	49%	35%	36%	54%	63%	53%	53%
DHHS	88 of 212	58 of 113	49 of 75	18 of 28	65 of 142	29 of 79	307 of 649	
	42%	51%	65%	64%	46%	37%	47%	47%
Agency 2009	41 of 93	12 of 39	37 of 58	5 of 13	8 of 16	17 of 25	120 of 244	
	44%	31%	64%	39%	50%	68%	49%	49%
DHHS 2009	52 of 93	27	21 of 58	8 of 13	8 of 16	8 of 25	124 of 244	
	56%	69%	36%	61%	50%	32%	51%	51%

2009 Completed Investigations

Of the 244 assigned investigations, 222 (91%) reports were finalized, 22 outstanding reports are awaiting law enforcement or District Attorney action before APS can finalize the reports. APS staff follows up monthly on the status of these cases.

The report completion rate has been affected by a number of factors. There have been an increased number of shared investigations with the police involving criminal matters including theft of consumer funds, medications or sexual exploitation. Because of police and District Attorney involvement, the writing and dissemination of APS reports was delayed so as not to compromise court proceedings. Regional DHHS staff regularly monitors police progress where the burden of proof is higher than APS preponderance of evidence.

An Investigations Report may combine more than one related Reportable Events and each event is identified in the report, specifying the alleged categories of harm. During this reporting period, there were four findings of Program Substantiation compared to fourteen in 2008. Though 6 events involving Rights Violation were assigned, these were secondary categories. When the primary category is assigned in one Reportable Event, all categories are assigned in EIS. The Office of Advocacy was also ticklered for these Reportable Events and therefore the majority of Rights Violations investigations were deferred to the Advocates.

FTS = Failure to Substantiate; LI = Level I Substantiation; LII = Level II Substantiation; Program Substantiation. Below is the table for the 2004-2009 Substantiations.

2004-2009 Findings and Substantiations

Outcome	T 2004	T 2005	T 2006	T 2007	T 2008	T 2009
Failure to Sub.	367	447	166	211	238	143
Level I Sub.	360	229	48	44	79	24
Level II Sub.	0	24	107	90	105	52
Program Sub.	0	0	0	2	14	3
Total	727	700	321	347	436	222

Findings/Substantiations for 2008

Findings/Substantiations for 2009

Reg.	FTS	Lev I	Lev II	Program Sub	Total	FTS	Lev I	Lev II	Program Sub	Total
1	104	12	32	10	158	59	7	16	2	84
2A	41	28	41	0	110	26	2	10	0	38
2L	11	11	4	0	26	33	2	12	0	47
2R	21	2	3	0	26	9	3	0	0	12
3B	17	8	10	3	38	5	6	4	1	16
3C	44	18	15	1	78	11	4	10	0	25
Total	238	79	105	14	436	143	24	52	3	222

Both agency and DHHS investigators strive to complete assigned investigations within the standard 30 day time frame. Investigations taking 120 days or longer are mostly attributed to police involvement, secondly attributed to DHHS staff priorities of conducting investigations over finalizing reports and lastly attributed to APS Manager priorities in finalizing APS reports.

Below is a table that displays the overdue reports beyond 121 days from both agencies and DHHS Investigators. Improving this trend was a challenge for 2009. The time for DHHS investigators has been compromised by the screening challenges of a higher number of Reportable Events, the increased assignment of investigations, and the push-back from some agency investigators to complete assigned investigations. It continues to be clear that expecting reports to be finished in 30 days is not an expectation that is being accomplished by agency or DHHS investigators and the standard will be modified in the upcoming rule changes.

2009 Timeliness of Agency Investigations of Completed Reportable Categories

Region	<30 days	<60 days	<90 days	<120 days	>121 days	Still Overdue	Totals	Assigned
R1	19	5	6	1	10	0	41	41
2A	20	4	0	0	2	1	27	27
2L	12	1	3	1	2	2	21	21
2R	3	2	0	0	0	0	5	5
3B	2	4	3	0	3	0	12	12
3C	13	4	0	0	0	0	17	17
Totals	69	20	12	2	17	3	123	123

2009 Timeliness of DHHS Investigations of Completed Reportable Categories

Region	<30 days	<60 days	<90 days	<120 days	>121 days	Still Overdue	Totals	Assigned
R1	17	5	5	3	13	9	52	52
2A	2	2	2	3	3	0	12	12
2L	4	7	11	3	3	9	37	37
2R	2	0	2	1	2	1	8	8
3B	1	2	0	0	1	0	4	4
3C	2	1	3	0	2	0	8	8
Totals	28	17	20	10	24	19	121	121

2007-2009 Substantiations and Administrative Hearings

Since December 2006, the APS unit notified the affected person of a Substantiation Level I or II finding in writing. To comply with the *Bouyea* decision, Level I and Level II Substantiations were tracked. In 2009, there were 24 Level I and 52 Level II Substantiations. This compares to 57 Level I and 79 Level II Substantiation findings during 2008. The following table compares 2008 and 2009 Substantiation findings and Administrative Hearings.

Year	Level I	Appeals	Pending	Upheld	Overtured at Hearing	Overtured by DHHS	Abandoned Dismissed, Withdrawn	Level I Not Appealed	Level II
2007	24	2	0	1	0	1	0	21	58
2008	57	10	3	4	3	7	0	65	79
2009	24	7	1	1	2	1	3	9	52

Patterns of Recommendations in 2007-2009 Completed Investigation Reports

With the help of Central Office Administrative support, all completed 2009 APS report Findings and Recommendations were entered into EIS. Each Regional Office follows up on the completion of these Recommendations.

COMPARISON OF 2007, 2008 and 2009 RECOMMENDATIONS

2007	2008	2009	RECOMMENDATION
Total	Total	Total	
103	83	5	Recommendation for employee discipline
10	3	0	Cases referred to the police
7	6	6	Recommendations that DHHS or someone other than the current payee become the payee for the consumer.
10	31	10	Recommendations about education or counseling
124	121	22	Recommendation about staff training
71	100	22	Recommendation that a Team Meeting or PCP be convened.
11	18	2	Recommendations for Guardianship (either MR Services or Private) to be pursued.
15	7	0	Recommendations for respite placement pending the development or location of a more permanent placement.
2	8	0	Recommendation for a placement to occur or be developed.
40	6	1	Recommendation for MR Intake Services or Case Management.
11	3	0	Referrals to DHHS Licensing and Regulatory Services
2	0	0	Report forwarded to DHHS Assisted Living Licensing for suggested follow-up.
4	1	1	Referrals to the Healthcare Crimes Unit or Provider Integrity Unit
0	1	0	Referrals to Code Enforcement Officers
26	18	0	Referrals to Office of Advocacy
25	54	0	Recommendations for agency policy review/modification
5	17	6	Recommendation for increased staffing
	35	4	Other*
		(16)	**No Recommendations (not included in total count)
466	512	81	Total Recommendations

In 2007 there were a total of 466 Recommendations while there were 512 Recommendations in 2008. These standard Recommendations were created since 2003 and the greatest Recommendation has consistently been for staff training followed by a team meeting or a Person Centered Planning meeting to address a modification to a consumer's plan. Other* was added as a category in 2008 to capture many of the consumer treatment Recommendations, such as Regional Office oversight of agency program 11; PT/OT evaluation 4; physical modification to the home 5; and consumer equipment modifications 5.

Reportable Events Not Assigned

For 2009, 1474 (86%) of the 1718 Reportable Events were screened out compared to **1300** (67%) of 1949 Reportable Events in 2008 were screened out. This compares to **1191** (70%) of **1691** Reportable Events, were screened out in 2007 and **944** (67%) of **1410** Reportable Events were screened out in 2006.

These events always involve an initial DHHS review and APS screening of the reported events as part of a preliminary assessment. The purpose of the initial review is to clarify the event happenings and persons involved in the event so as to better determine if the event rises to the level of an APS allegation needing an investigation. Every APS Reportable Event is screened. Screening often involves DHHS regional staff contacting the filer of the Reportable Event, obtaining background information from the case manager, reviewing EIS notes and previous APS reports, previous Reportable Events in consultation with the APS manager to determine the need or benefit of an investigation. There are circumstances when the better more appropriate intervention is not APS, but rather case management or the provider agency, particularly when

housing, medical attention and/or other social supports are needed. Consumer health and safety is always a priority. The APS Unit will refer the matter to an agency or individual that may more appropriately address the supports needed to attend to the reported events at the level where there is the greatest benefit to the consumer. Some incidental events are immediately resolved and other events turn out to be false reports. Each Reportable Event is evaluated and carefully reviewed before a determination is made to further investigate or to refer the matter to a more appropriate entity.

The quality of Reportable Events information has sometimes been challenging during this reporting period. Some Reportable Events consist of one sentence involving a vague allegation or event. Such Reportables require significant APS follow up. This has been an issue for the past few years and is likely reflective of agency staff turnover and/or agency preferences in completing Reportable Events. Though screening by APS staff is crucial, it is the major time consuming responsibility and takes away from valuable investigation and report writing time.

Reasons for screening out are as follows:

- Accept Provider Resolution (APR) –agency took appropriate/reasonable corrective action
- Refer to Regional Office Review (RO) – CCM/ISC attention/follow-up in progress
- Refer to Office of Advocacy (Adv)– consumer rights matter
- Refer to Licensing (Lic.) – Licensing and Regulatory Services matter
- Refer to Office of Elder Services (OES) – consumer is not eligible for DD services
- Refer to police – Criminal matter
- Refer to Provider Integrity Unit/DHHS (PIU) – question of MaineCare fraud/abuse
- Not an APS Matter/incident – client-to-client incident without harm or with staff intervention, or the event is without factual basis, or the event does not rise to the level of APS

The following table compares 2008 and 2009 unassigned Reportables by region.

Event	R1	2A	2L	2R	3B	3C	Total	R1	2A	2L	2R	3B	3C	Total
Accept Provider Resolution	84	72	60	31	98	47	392	103	102	55	33	174	51	518
Refer to Regional Office review	124	81	47	55	124	49	481	104	82	75	68	137	47	513
Refer to Office of Advocacy	6	2	5	7	7	2	29	1	7	11	0	20	0	39
Refer to Licensing	8	6	6	1	1	2	24	3	9	3	0	6	0	21
Refer to Office of Elder Services	0	2	2	0	0	0	4	1	2	2	0	0	0	5
Not an APS matter/incident	45	97	59	19	88	63	372	73	52	36	23	122	72	378
Totals/net	267	260	179	113	318	163	1300	285	254	182	124	459	170	1474

Statewide Unassigned Event Categories/Region, comparing 2008 and 2009

Event	R1	2A	2L	2R	3B	3C	Total	R1	2A	2L	2R	3B	3C	Total
Physical Abuse	58	43	36	22	54	10	223	69	63	44	39	79	23	317
Verbal Abuse	38	18	19	21	26	17	139	20	13	15	5	20	21	94
Dangerous Situation	15	11	3	6	32	7	74	19	9	13	6	41	12	100
Exploitation	29	20	22	10	29	16	126	23	38	16	14	51	26	168
Serious Illness/Injury	3	10	1	2	5	2	23	5	2	1	1	5	1	15
Neglect	84	76	61	27	117	69	434	95	78	54	35	163	41	466
Rights Violation	6	14	2	7	19	2	50	3	12	4	4	33	4	60
Sexual Exploitation	17	46	18	8	26	25	140	21	25	16	11	41	28	142
Restraint	2	3	2	2	1	2	12	3	2	6	0	1	0	12
Med. Related Event	4	3	2	1	0	2	12	5	3	2	1	6	1	18
Suicidal Attempt/Act	3	7	0	1	1	0	12	0	1	0	0	1	0	2
Death	8	9	13	6	8	11	55	22	8	11	8	18	13	80
Total	267	260	179	113	318	163	1300	285	254	182	124	459	170	1474

APS Workload Forward

The APS workload continues to be extremely busy yet we have managed to respond to each Reportable Event identified as APS that needed to be investigated. Every reportable was investigated that was identified as needing to be investigated. DHHS investigators continue to conduct a considerable amount of inquiry seeking additional information that could have been included on the Reportable Event. Our efforts need to be directed more towards investigation than towards screening matters that are not abuse, neglect, and exploitation.

The Office of Adults with Cognitive and Physical Disability Services oversees support services to consumers with developmental disabilities. From the Regional Office to the local community level, there is a shared responsibility for assuring consumer safety while promoting individual growth and independence. From this perspective, the most beneficial and least intrusive approach to address the threat or act of harm including abuse, neglect, or exploitation is in the consumer's best interest if we are to support consumer community integration. APS should be reserved for addressing the more egregious threats or acts of abuse, neglect, exploitation because the presence of APS is noticeably more significant and involved than that of the other constants in the consumer's life. The remaining Reportable Events were responsibly and properly delegated to the qualified resources available within the State human services system; to not utilize such resources would be

irresponsible. As previously noted, the APS Unit works in conjunction with other Department and Office staff within the State and it is as a shared responsibility that all Reportable Events affecting our consumers are examined and addressed.

Reportable Event categories need to be examined as to their relationship to APS. Dangerous Situation and Serious Injury are too subjective and are often added to a Neglect or Physical Abuse Reportable Event. A Restraint Reportable Event usually implies Physical Abuse. The majority of Reportable Events involving Death do not involve abuse or neglect and are therefore not APS matters. APS screened 80 such Reportable Events in 2009 ruling out all of them. The Reportable Event does not always identify if death was expected, if Hospice was involved, etc. Several Sexual Exploitation Reportable Events were screened out because they did not meet the definition of sexual exploitation.

Recommendations for 2010

The APS unit will continue to work with the Lean process in identifying what events rise to APS and identifying those events best referred to other entities for more immediate remedy. A two day Agency Investigator APS Training will be developed and delivered to new investigators by fall of 2010.

Respectfully submitted,

Priscille Côté

Adult Protective Services Unit Manager

cc: Brenda Harvey, Commissioner DHHS
Muriel Littlefield, Deputy Commissioner DHHS
Marina Thibeau, General Counsel
Jane Gallivan, Director, Office of Adults with Cognitive & Physical Disability Services
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Department of Health and Human Services

*Maine People Living
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John E. Baldacci, Governor

Brenda M. Harvey, Commissioner

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