

**FISCAL YEAR 2016-2017
SCOPE OF SERVICE**

**PROTECTIVE SERVICES
LEGAL SERVICES PROGRAM**

I. PURPOSE

The County of Allegheny's Department of Law, in its capacity as legal counsel to the Allegheny County Department of Human Services / Allegheny County Area Agency on Aging (ACDHS/AAA), shall provide the legal component of the ACDHS/AAA Protective Services Program. Legal Services shall include legal representation, consultation, and training for ACDHS/AAA, its employees, agents and subcontractors.

II. DEFINITIONS

- A. **The Allegheny County Department of Human Services/Area Agency on Aging (ACDHS/AAA)** provides services to adults age sixty (60) and over to help them maintain their independence.
- B. **Legal Services** shall include representation, consultation, and training for ACDHS/AAA, its employees, agents and subcontractors.
- C. **Master Provider Enterprise Repository (MPER)** a repository of key Provider demographic data for all contracted providers who provide services for DHS. DHS applications use MPER to validate contract, services, facilities and rate information to facilitate documentation of services rendered information by Providers. Contracted Providers are required to keep all agency information including but not limited to contacts, facilities and service offering information up to date.
- D. **Protective Services Legal Services (PSLS)** include representation for ACDHS/AAA concerning a protective services problem including: petitioning for court ordered interventions, both voluntary and involuntary, access to person, access to records, orders to enjoin interference, emergency interventions, written petitions, oral petitions, emergency order duration, affidavits, petitions for guardianship, and other legal actions and consultations as needed regarding the appropriateness of legal intervention in a particular protective services or guardianship case.

III. AGING PROGRAM DIRECTIVE (APD) / FEDERAL / STATE REGULATORY REFERENCE AND COMPLIANCE

Organizations providing services outlined in this Scope of Service shall comply with all federal and state directives listed below:

Laws

- [2006 Reauthorization of the Older Americans Act](#)
- [Pa. Statute Title 35 \(Older Adults Protective Services Act\)](#)

Regulations

- [6 PA Code Chapter 15](#)

This Scope of Service is subject to change based on changes to the above directives.

IV. PERFORMANCE EVALUATION

Each contract year the ACDHS/AAA will inform clear expectations of acceptable performance standards to the CONTRACTOR and hold the CONTRACTOR accountable to them. These standards relate to compliance with applicable policies, regulatory guidelines, contract scopes, and Performance Based Contracting (PBC), where applicable, to support ongoing service quality and to best meet or exceed the participants' needs and to optimize service impact on its participants. The CONTRACTOR is responsible for adhering to the timelines in reporting its compliance to the scopes and using findings to build on its strengths and develop strategies on opportunities, through a continuous quality improvement process.

V. SERVICE STANDARDS, REPORTING AND DOCUMENTATION REQUIREMENTS

- A. The CONTRACTOR will have the capacity to retrieve and submit data, information, reports and other communication through electronic internet capabilities within a timeframe specified by the Area Agency on Aging. Failure to receive or read Area Agency on Aging communications sent to the CONTRACTOR (Master Provider Enterprise Repository) e-mail address in a timely manner does not absolve CONTRACTOR from knowing, responding to or complying with the content of that communication.

- B. The CONTRACTOR is responsible for accurately recording all participant service and program data into the appropriate information management system (SAMS, Omnia, SAMS IR etc.), by the seventh (7th) working day of the month for the prior month's transactions. The CONTRACTOR is responsible for coordinating appropriate information management system training (SAMS, Omnia, etc.) and the transfer of knowledge & information to existing and new staff.
- C. Representatives of the Law Department will meet with representatives of ACDHS/AAA to exchange information and resolve problems whenever such meetings are found to be necessary. The meetings will be held at Allegheny County Area Agency on Aging office.
- D. One (1) unit of service equals one (1) hour of participant based services or work.
- E. Representation: The Law Department shall prepare all necessary documentation and represent ACDHS/AAA and its subcontractors before the Court of Common Pleas of Allegheny County and appellate courts whenever legal intervention in a protective services problem is initiated. All petitions shall be in the name of ACDHS/AAA even if a subcontractor of ACDHS/AAA is involved.
 - 1. Petitioning for Court Ordered Intervention
 - a. An Allegheny County Law Department Protective Services Legal Services (PSLS) Attorney shall be contacted by a Protective Services worker to petition the Court for intervention when:
 - i. Access to the person reported in need is denied;
 - ii. There is a need for forcible entry;
 - iii. Access to relevant records is denied;
 - iv. Client consent is withheld;
 - v. There is interference with service delivery.
 - b. Emergency intervention: When there is clear and convincing evidence that, if Protective Services are not provided, the person to be protected is at imminent risk of death or serious physical harm, the Court shall be petitioned for an emergency order to provide the necessary services.

- c. When the Court is petitioned for involuntary intervention, the Law Department shall work with the Protective Services investigator to assure legal representation of the older adult to be protected.
- d. The written petition shall state the following information:
 - i. The name, age and physical description of the older adult insofar as these facts have been ascertained;
 - ii. The address or other location where the older adult can be found;
 - iii. The name and relationship of a guardian, caregiver or other responsible party residing with the older adult, when applicable;
 - iv. A description of how the older adult is at imminent risk of death or serious physical harm;
 - v. The physical and mental status of the older adult, to the extent known;
 - vi. The attempts made by the agency to obtain the informed consent of the older adult, or the older adult's court appointed guardian, when applicable, to the provision of protective services by the agency;
 - vii. The specific short-term, least restrictive, involuntary protective services which the agency is petitioning the court for an order to provide;
 - viii. A description of how the proposed services would remedy the situation or condition which presents an imminent risk of death or serious physical harm;
 - ix. A statement showing why the proposed services are not overbroad in extent or duration and why less restrictive alternatives as to their extent or duration are not adequate;
 - x. A statement that other voluntary protective services have been offered attempted or have failed to remedy the situation;
 - xi. A statement that reasonable efforts have been made to communicate with the older adult in a language the older adult understands in the case of an older adult

who is hearing impaired or who does not understand the English language;

- xii. Other relevant information deemed appropriate by the agency.
 - e. Oral petitions: When oral presentation of a petition for emergency involuntary intervention is warranted, the written petition shall be prepared, filed and served on the older adult and counsel within twenty four (24) hours of the entry of the emergency order or on the next business day, when the twenty four (24) hour period would fall on a weekend or legal holiday.
 - f. Emergency order duration: In the petition, the Law Department shall request an emergency order of a specific duration which may not exceed 72 hours from the time the order is granted. The Law Department shall request the court of common pleas to hold a hearing when the initial emergency order expires to review the need for an additional emergency court order or other continued court and protective services involvement, or both. The issuance of an emergency order is not evidence of the capacity or incapacity of the older adult.
 - g. Affidavits: Any allegations which are not based upon personal knowledge shall be supported by affidavits provided by persons having that knowledge. The affidavits shall be attached to the petition.
2. Petition for Guardianship: The following is the procedure with respect to petitions for appointment of a guardian of person, estate, and / or person and estate.
- a. Social Services subcontractors, or other persons as are designated by ACDHS/AAA, shall be responsible for gathering information needed to prepare guardianship petitions.
 - b. The PSLS attorney shall consult with the Social Services worker on the appropriateness of the case prior to preparing a petition.
 - c. A standardized detailed guardianship information form will be used to assist the Law Department in preparing petitions.
 - d. When the needed information is received, the Law Department shall prepare the petition, obtain a hearing date, notify all interested parties of the hearing and represent the Petitioner.

- F. Consultation: The Law Department shall make available, during normal working hours, the services of at least one attorney for the purpose of consulting with ACDHS/AAA, its employees, agents and subcontractors regarding the appropriateness of legal intervention in particular cases.
- G. Training: The Law Department shall, as requested by ACDHS/AAA, provide training to Social Services workers on legal issues and procedures related to Protective Services. The design and format of this training shall be approved by ACDHS/AAA.
- H. Appropriate Participants are designated to be: ACDHS/AAA employees, agents and subcontractors.
- I. Personnel
 - 1. The Law Department shall assign a sufficient number of attorneys to meet the program requirements specified herein and the requirements of Act 79, the Older Adults Protective Services Act.
 - 2. Twenty-four (24) hour, seven (7) days a week emergency availability of an attorney shall be assured.
 - 3. A vacancy in the Law Department staff under this contract must be filled within forty five (45) days. Any extension of the time beyond this time limit must be approved by the ACDHS/AAA Director.
- J. Program Reporting
 - 1. The Law Department will establish a record-keeping system that is uniform and orderly, and conducive to review and audit as follows:
 - a. Maintain a system of records about service activity participation and scheduling in order to document current operation;
 - b. Maintain individual files on all matters which involve legal action;
 - c. Establish and maintain a uniform order for filing documents, correspondence, etc. in individual cases files so that information is readily identifiable;
 - d. Establish policies which ensure that individual participant information is maintained in a confidential manner consistent with applicable state and federal laws;

- e. Submit additional narrative and / or statistical reports as requested by ACDHS/AAA Administrators;
- f. Maintain appropriate fiscal records as required by the Budget Office and ACDHS/AAA.

K. Protective Services Legal Services Responsibilities

- 1. When contacted with a protective services problem, each attorney will elicit all of the relevant facts pertaining to the problem and will advise the caller on the appropriateness of legal intervention. If legal intervention is determined to be appropriate, the attorney will advise the caller regarding what administrative action must be taken before legal intervention can take place.
- 2. Protective Services cases shall be acted upon in a timely manner.
- 3. Emergency and / or urgent legal problems will be answered on a priority basis.
- 4. In all Guardianship cases, the Law Department will be responsible for briefing the Social Services Worker and Guardianship Worker a minimum of two days prior to the court hearing.
- 5. Whenever an alleged incapacitated person requests legal representation prior to a Court hearing, Protective Services Legal Service (PSLS) will arrange for said client to be represented by an Attorney who is not a member of the PSLS staff.
- 6. When appropriate, PSLS will be responsible for serving any subpoenas against banking institutions located in the downtown Pittsburgh area.
- 7. PSLS will be responsible for legal expenses incurred in the preparation of court cases.

VI. RESPONSIBILITIES / EXPECTATIONS OF THE PROGRAM OFFICE (ACDHS/AAA)

The Area Agency on Aging will provide technical assistance, direction and cooperation to assist the CONTRACTOR in satisfactorily recording program and service data into the appropriate information management system (SAMS).

- A. Developing interim program policies and procedures to meet all Pennsylvania Department of Aging and local requirements arising during the life of this contract.
- B. Program monitoring and evaluation to assure compliance with the specifications and terms of this contract.

- C. Developing all intake, assessment and reporting forms to be used for this contract.
- D. Specifying procedures for initiation and termination of service.