



Adult Protective Services

A Bureau of the Office of Children and Family Services



PROTECTING ADULTS A COMMUNITY CONCERN

Protecting Adults: A Community Concern

Adult Protective Services (APS) is a state-mandated program which is provided without regard to income to assist vulnerable adults, age 18 or older, who because of mental or physical impairments, can no longer provide for their basic needs for food, clothing, shelter, medical care, or protect themselves from neglect, abuse or hazardous situations, and who have no one willing and/or able to help in a responsible manner.

In New York State, help for impaired adults who are abused, neglected or exploited is available through local social services departments located in each county and through the Human Resource Administration in New York City.

APS Clients

APS clients are among the most debilitated and neglected members of the community—the frail elderly, the mentally ill, the developmentally disabled, and the abused and exploited. These persons are often not known to any agency or have refused services and are isolated from family and friends. The need to provide help for these clients will continue to grow as our population ages and family ties become strained by distance and burden of chronic illness.

Approximately sixty percent of APS clients in New York State are over age 60. About 25 percent of all APS cases involve a perpetrator (physical abuse, sexual and emotional abuse, neglect by others, and financial exploitation); 75 percent are termed self-neglect cases.

Self-neglect cases involve an impaired adult's inability to obtain adequate food, clothing, shelter, medical care or entitlements on his or her own behalf.

The Mission of APS

Adult Protective Services is a system of services aimed at maintaining individuals in the community as long as possible rather than institutionalizing them. Services are designed to prevent or remedy the neglect, exploitation or abuse of adults by strengthening, to the extent possible, their capacity to function and their ability to be self-directing.

APS's Guiding Principles

Right to Self-Determination

An adult with capacity has the right to exercise free choice in making decisions, even if some of those decisions seem eccentric. Without clear evidence that the client is at risk, APS staff must refrain from imposing their own or the general community's values and standards upon the client. However, if the client is at risk, APS staff must investigate to determine whether the risk is the result of the free choice of an individual with capacity, or is a symptom of the client's inability to make decisions or to comprehend risks because of a mental or physical impairment.

If the APS assessment indicates that the client is capable of understanding the risk and its consequences, then APS staff will respect the client's right of self-determination and will work with the client to develop a mutually agreed upon plan of services to reduce the risks the client is facing.

State's Authority to Intervene

When there is evidence of a serious threat to the safety and well-being of the client and the client is incapable of making choices regarding the danger because of temporary or permanent impairment, the agency is obligated to seek services to protect the client's safety, even if the client refuses services. Two legal principles provide the authority of the state to intervene.

- ◆ The police power of the state gives the state authority to regulate activities that endanger the health and safety of others.
- ◆ "Parens patriae" gives the state authority to act in a parental capacity for persons who cannot care for themselves or who are dangerous to themselves.

These legal principles are the basis for authority established in Social Services Law, Family Court Act, Public Health Law, Mental Hygiene Law, and Surrogate Court Procedure Act.

Least Restrictive Alternative

Interventions are limited to specific actions required to address the endangering condition. Efforts are made to provide needed services in the adult's own home when possible. In some situations, it may not be possible to ensure the client's safety in his or her own home and alternate living arrangements must then be considered.

APS Client Characteristics

Individuals, age 18 or older, are eligible for protective services for adults if they meet the following criteria:

Physical or mental impairment...

The adult must have a physical illness or disability and/or mental impairment that results in a decreased capacity for self-care and self-determination. Conditions which may contribute to a client's disability may include mental illness, developmental disabilities, chronic or acute physical illness, Alzheimer's disease or other conditions associated with aging, physical handicaps, and alcohol or substance abuse.

and

Inability to meet essential needs or to protect oneself from harm...

The adult must be at risk due to one or more of the following circumstances:

- ◆ Unable to perform essential daily living activities, such as tasks related to nutrition, personal hygiene and housekeeping.
- ◆ Unable to obtain needed benefits and services including SSI, Food Stamps (SNAP) and Medical Assistance, or failure to receive adequate food, clothing, shelter or medical care due to self-neglect or neglect by relatives or other caregivers.
- ◆ Defenseless against physical, mental or sexual abuse by another person, or vulnerable to financial exploitation or other criminal actions by others.
- ◆ Unable to unwilling to manage personal finances to pay for essential needs, or chronic squandering of limited resources.
- ◆ Conditions which present a serious or immediate threat to life, such as hazardous physical surroundings, self-endangering behaviors, untreated injuries or illness including hypothermia, dehydration and malnutrition.

and

Have no one available willing and able to assist responsibly...

In many instances relatives are not willing to provide care or are not able to meet all of the client's essential needs. In other cases, family members may be abusing or neglecting the client. Neighbors or friends who have no legal responsibility may hesitate to play more than a limited role. While other service providers may be involved or seen as a potential resource for the provision of services to the client, the ability and willingness of these other agencies must be weighed against the clients's needs. Even when relatives and/or other agencies are appropriately involved with APS clients, it may be necessary for the social services district to maintain an active role in the provision of services to those clients whose needs exceed the service capacity of their relatives and/or other service providers.



APS Service Delivery

Referral

The law requires APS to conduct an investigation whenever it receives oral or written information concerning a person who is thought to be in need of protective services. APS must accept all referrals made within normal working hours.

Investigation

APS is required to act on referrals of life-threatening situations within 24 hours of receipt of the information. For other referrals, an investigation is begun within 72 hours and a home visit is made to the client within three working days.

Assessment

An assessment/services plan must be made by APS within 60 days of the referral. The APS worker assesses the risks facing a client, his or her ability to deal with the situation and willingness to accept assistance from others. In developing a plan of services, the APS worker tries to establish a trusting relationship with the client so that the services may be provided on a voluntary basis. Efforts are made to contact the family, freinds, neighbors and other community-based services in order to determine the client's capacity to function independently, make decisions on his or her own behalf and understand the consequences of those decisions.

Sometimes APS staff have serious difficulty investigating a referral because access is denied either by the person or someone else. Social Services Law Section 473-c provides a means for the Department of Social Services to gain access to a person who may be in need of protective services but to whom access is being denied. A petition must be filed in supreme or county court to obtain authorization to gain access and conduct an assessment. If granted, the order authorizes APS staff, acompanied by a police officer and other necessary professionals, to conduct an assessment to determine level of risk to client and eligibility for services.

Services

Counseling

Caseworkers provide direct counseling to enable a person to accept needed services. Caseworkers may also meet with family members or other involved persons.

Case Management

APS locates medical care, services and other resources in the community. This may include arranging for medical or psychiatric assessments and treatment, home health care, home-delivered meals, and homemaker or housekeeper chore services.

Ongoing assessments and monitoring to help assure that the services plan continues to be appropriate are provided through monthly home visits.

Advocacy

APS assists in obtaining benefits and services the person is entitled to. This may include arranging for legal services, applying for entitlements, or participating in fair hearings.

Money Management

APS assists adults who are unable to manage their resources on their own behalf or protect themselves from exploitation. A representative payee may be appointed to manage Social Security or Supplemental Security Income (SSI) benefits. A protective payee can be established to manage public assistance benefits.

Finding Alternative Living Arrangements

APS may arrange for other housing, including referral to family -type homes for adults, adult homes, nursing homes, or other supported housing. Emergency room and board may be provided for up to thirty days as part of an APS service plan.

Crisis Interventions

State law contains several specific interventions that can be utilized in crisis situations. A crisis is defined as a situation in which there is an immediate and identifiable danger to a person or his/her property. If the person, because of an impairment, is incapable of making the choices necessary to remove the endangering condition, the following interventions can be used to address crises:

Short-Term Involuntary Protective Services Orders (STIPSO)

When an adult is at imminent risk of death or serious physical harm, is unable to understand the risk because of an impairment, and is refusing services, APS may apply to the supreme or county court for authority to provide involuntary emergency services for 72-hour period, with one renewal for an additional 72 hours. The person may be removed to a hospital or receive other services available through APS (Social Services Law 473-a).

Admission to a Psychiatric Facility

APS will work with mental health professionals and/or police officers to seek treatment for a mentally ill person living in the community who is acting in a manner likely to cause harm to him/herself or others (New York Mental Hygiene Law, Article 9).

Admission to a Developmental Center

APS may apply for admission to a developmental center on behalf of an individual who has developmental disabilities, in need of involuntary care and treatment and has no one else to provide the necessary help (New York Mental Hygiene Law, Article 15).

Orders of Protection

APS will assist an adult to apply, or apply on his or her behalf, to family or county court for an order of protection to control abusive or criminal acts between family members or people in the same household. The order may instruct a person, for example, not to hit the client, or to stop interfering with the delivery of necessary services, such as home care. A perpetrator may be ordered to participate in a counseling or a substance abuse treatment program (Family Court Act, Article 8).

Legal Procedures of Long-Term Consequence

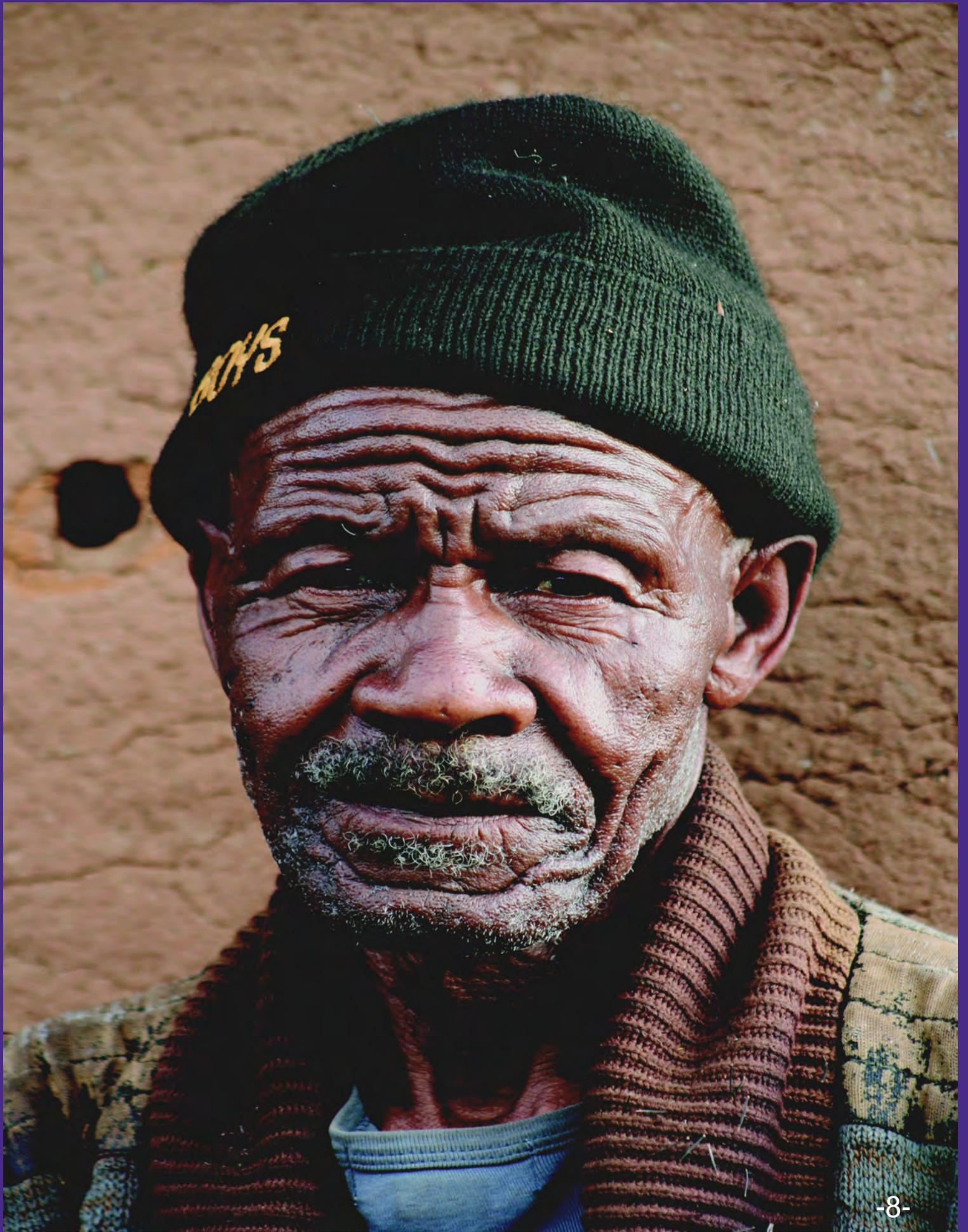
APS must petition the courts when long-term management of impaired persons and/or their property is required, and no one else is willing and able to assist responsibly.

Guardianship

For persons who are so incapacitated that supportive services are not sufficient to protect them, and who have no one to assist them, APS may apply to supreme or county court for the appointment of a guardian to provide for personal needs including food, clothing, shelter, health care, or safety and/or to manage property and financial affairs. The powers of the guardian are limited to those the court finds necessary to assist the person. These may include the power to decide who provides personal care or assistance and to make decisions regarding social environment and living arrangements (New York Mental Hygiene Law, Article 81).

Guardianship of the Mentally Disabled

For developmentally disabled persons who are incapable of managing themselves or their affairs and who have no one to assist them, APS may apply for a guardianship for the developmentally disabled client to protect them and/or their property (Surrogate Court Procedure Act, Article 17-A).



Staffing and Training

Local district APS staff, including caseworkers, supervisors and attorneys, must have knowledge and skills to assess the needs of their clients and to coordinate necessary services with other professional and voluntary agencies within the community. In preparation for performing these tasks in a competent manner, APS staff are required to complete a basic training institute which covers the principles of case management, an overview of the legal aspect of APS, and guidelines for working with mentally ill, developmentally disabled, frail elderly, and alcohol and substance abusers. In addition, caseworkers and supervisors complete a comprehensive training program on the legal aspects of APS and supervisors attend training on supervision of APS programs. A number of other training workshops are offered periodically on topics such as adult abuse and neglect, accessing entitlements, decision-making, and dealing with grief and loss.

Consulting the Service Network

The complicated nature of APS clients' problems would suggest, and Social Services Law requires, that APS staff consult with other appropriate public, private and voluntary agencies in order to assure maximum understanding, coordination and cooperative action in the provision of appropriate services to protective services clients. These agencies include, but are not limited to, aging, health, mental health, legal and law enforcement agencies. APS works with these agencies in the planning and delivery of services. Written agreements are developed which specify referral procedures and roles and responsibilities of agencies from each of these disciplines.

Making a Referral

Any concerned person—a family member, a friend, a neighbor, a health professional or social worker—who sees an individual who, because of an impairment, is unable to cope with everyday life and is in need of APS's help, can call the local department of social services. Of course, individuals who recognize their own need for help may call on their own behalf. Referrals are kept confidential to the extent allowed by law.

Immunity: Social Service Law 473-b provides immunity from civil liability to persons who, in good faith, refer an adult whom they believe may be endangered or in need of protective service.

Call your local department of social services and ask for Adult Protective Services. Or contact the Human Services Call Center **1-844-697-3505** for the number of your local APS unit.





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Rensselaer, New York 12144

Visit our website at:

ocfs.ny.gov

To report child abuse or maltreatment, call:

1-800-342-3720

For child care, foster care, and adoption information, call:

1-800-345-KIDS

For information on the Abandoned Infant Protection Act, call:

1-866-505-SAFE

For the phone number of your local APS unit call the Adult Services Help Line at the Human Services Call Center

1-844-697-3505

"...promoting the safety, permanency, and well-being of our children, families and communities. ..."

Pursuant to the Americans with Disabilities Act, the New York State Office of Children and Family Services will make this material available in an appropriate format upon request.