
REPORTING

Bureau of Community and Health Systems (BCHS) has a mandatory requirement that facilities utilize **BCAL 4607 Incident and Accident report** when an adult in the facility experiences a harmful circumstance.

**BCAL 4607
Incident and
Accident Reports**

Incident and accident reports are submitted by the licensee or designee to the responsible agency and the licensing consultants are to review these reports and take appropriate action. Incident and accidents that require 48 hour notification are:

- The death of a resident.
- Any accident or illness that requires hospitalization.
- Incidents that involve any of the following:
 - Serious displays of hostility.
 - Attempts at self-inflicted harm or harm to others.
 - Instances of destruction of property.
 - The arrest or conviction of a resident.
 - Medication error by staff or pharmacy.

If incidents and accidents are not reported timely, the adult services worker is to notify the appropriate licensing consultant.

Upon receipt of the report, adult protective services procedures should be followed if the adult services worker has a reasonable belief the incident or accident resulted from abuse, neglect or exploitation.

It is important to consider if the incident or accident could have been prevented and if it could have been prevented an explanation of how.

Example: A violent behavior on the part of a resident may occur because of failure to take medication. Corrective action might take the form of a conference with the staff to discuss the problem of medication management. This information should be shared with the licensee, staff, and client to help prevent the problem in the future.

It is important to make an effort to minimize incidents and accidents.

Monitoring Death Reports

A report of a death in a licensed facility is required by licensing rules for all types of facilities. The form the licensed facility uses is the **BCAL 4607** to report the death. The licensee is to submit the incident of death to the responsible agency and also their license consultant within 48 hours after the death is discovered. The adult services worker is to review as well as monitor the report for information where unnatural causes, accidents, or suspicious events contributed to the death of the resident.

Unnatural Causes of death

It is important to determine what preceded the event of death of a resident in order to possibly protect other residents in the same facility.

Example: Questions to think about would be:

- Was there evidence of unusual behavior such as depression?
- Were appropriate referrals made?
- Was extra supervision available or any general lack of supervision?

Contact should be made with the licensing consultant who will share investigative responsibilities per the BCHS internal policy Adult Foster Care Manual Item 380-Agency Coordination/Information Sharing and Referrals.

If reasonable belief the death resulted from abuse, neglect, or exploitation, the adult services worker must make a referral to BCHS and Law Enforcement if one has not already been made.

Complete the DHS-4712, Death Report Form, for the client's death. Scan the signed report and send to the Adult Services policy mailbox MDHHS-Adult-Services-Policy@michigan.gov. Put "**Death Report**" in the subject line of the email.

The ACP adult services worker is not required to complete the DHS-4712 when the client has died of natural causes.

**ADVERSE ACTION
NOTIFICATIONS BY
LICENSING**

Adverse actions by BCHS licensing staff may include license revocation, refusal to renew or denial of a renewal. When a notice of adverse action is received from BCHS, the **adult services workers are to notify all SSI recipients in writing of the areas of noncompliance and offer to assist in relocation.** This notification is a requirement of the Keys Amendment.

**The Keys
Amendment and
Adverse Action
process**

The Keys Amendment amends Title XVI (Supplemental Security Income) of the Section 1616 of the Social Security act with the goal of ensuring quality of care for SSI recipients by requiring adherence to state care standards. In Michigan, the standards are the AFC rules, adult foster care licensing law, children's foster care family/family group home rules, child caring institution rules, the Child Care Organization law, Homes for the Aged rules and the Public Health Code.

If the department suspends, revokes or refuses to renew and adult foster care license, relocation services shall be provided to all residents of the facility if such assistance is needed.

The responsible agency shall provide the relocation services and if no agency is responsible, then MDHHS will assist.

An individual in need of adult foster care services may not remain in a facility that is no longer licensed under the Adult Foster Care Facility Licensing Act (Public Act 218 of 1979).

The local office will receive copies of all letters which the Bureau of Community and Health Systems (BCHS) sends to the licensees in regard to adverse action.

**Notice of Intent
(NOI)**

The Notice of Intent (NOI) to revoke, refuse to renew, not issue a license letter is sent to the licensee specifying the areas of noncompliance. This is an intent letter signed by the director of

BCHS which transmits a licensing study report. The intent letter allows the licensee 30 days to appeal the decision.

If the licensee has not appealed the Department's decision after the 30 day appeal period, a revocation or refusal to renew letter is sent to the licensee stating the date on which the license is no longer valid. This letter is also signed by the director of BCHS.

The most common **Adverse Actions** notices that the local office supervisors will receive are **Notice of Intent Letters (NOI)**. These are usually sent via email to alert of activity related to licensed facilities in the county that are facing a license suspended, revoked, or not renewed. The notices are sent to give the county an advanced warning that residents in those facilities may need assistance with housing relocation should the license facility close after the designated time indicated in the letter. This assistance is provided to all clients residing in the facility.

Summary Suspension

When the adverse action is a summary suspension, the license is suspended upon receipt of the letter by the licensee or by an established date that is stated in the letter. The letter sets an appeal deadline date and informs the licensee to immediately cease providing adult foster care. Upon receipt of this letter, the responsible agency must begin **immediate action** to ensure the relocation of any adult foster care residents.

In cases where the licensee unsuccessfully appeals the revocation or refusal to renew decision and the department director signs the final decision and order, another letter is sent to the licensee indicating the effective date of the adverse action.

In either situation, not appealed or appealed, the adult services worker must notify each resident or designee in writing after the adverse action letter is received stating the effective date of the action. This notice can be created or written on the State of Michigan letterhead template in the MDHHS Forms Library.

- Include with the notice letter, information on the provision of services to relocate, and a reminder that the licensee is prohibited from keeping residents in the facility and attach a copy of the NOI.
- Individuals who require adult foster care services may not continue residing in an unlicensed home.

**Involuntary
Transfer or
Discharge**

- If the former licensee continues to serve residents in need of foster care, BCHS will request assistance from the Attorney General in taking legal action to immediately cease further operation of the facility.

This section contains licensing rules description of resident admission and discharge policy, resident rights and licensee responsibilities. Specific areas to be aware of are:

- A licensee shall provide a resident and his or her designated representative with a 30 day written notice before discharge from the facility. See AFC Licensing Rules in the Michigan Administrative Code R400.1407, R400.14302, and R400.15302.
- A licensee may discharge a resident before a 30 day notice when the licensee has determined and documented that any of the following exists (AFC Licensing rules in the Michigan Administrative Code R400.1407, R400.14302, R400.15302):
 - Substantial risk or an occurrence of self-destructive behavior.
 - Serious physical assault
 - Destruction of property.
- The licensee shall confer with the responsible agency, or if the resident does not have a responsible agency, with adult protective services and the local community mental health response service regarding the proposed discharge. If the responsible agency or if the resident does not have a responsible agency; adult protective services does not agree with the licensee that emergency discharge is justified then the resident shall not be discharged from the home (Michigan Administrative Code R400.1407, R400.14302, R400.15302).
- The licensee shall not change the residency of a resident from one home to another without the written approval of the resident or the resident's designee or the responsible agency (Michigan Administrative Code R400.1407, R400.14302, and R400.15302).

- A resident has a right to request and receive assistance from the responsible agency in relocating to another living situation (Michigan Administrative Code R400.1409, R400.14304, and R400.15304).

Adverse Action Relocation

Public Act 149 of 1994 amends the Penal Code by adding Chapter XXA which:

- Establishes penalties for harm caused to a vulnerable adult as the result of the actions or failure to act by a caregiver or other person with authority over a vulnerable adult.
- Establishes penalties for an operator of an unlicensed facility, an employee or an individual acting on behalf of an unlicensed facility who violates the licensing act and whose violation is the proximate cause of the death of a vulnerable adult.
- Establishes penalties for a caregiver, person with authority over a vulnerable adult or a licensee who commingles, borrows, or pledges resident funds, interferes with or obstructs a licensing investigation, or files false or misleading information required under the licensing act.
- Establishes penalties for a caregiver, licensee or other person with authority over a vulnerable adult for retaliation against a resident or employee because they make certain disclosures.
- Establishes second or subsequent violation penalties.
- Authorizes community service in addition to or as an alternative to imprisonment within defined parameters.

Public Act 262 of 1990 amends Public Act 218 of 1979 by adding two new subsections (3) and (4) to Section 22 that describe action to be taken when a providers license is revoked, suspended or renewal is refused. Public Act 150 of 1994 further amended subsection (4).

The amendments provide that:

1. The provider shall not keep the current residents or receive new residents **that need foster care**.

2. Providers who violate the law are guilty of a felony, punishable by imprisonment for up to five years or a fine of up to \$75,000.00 or both.
3. The department shall determine for each of the residents whether they will be able to relocate with assistance from their designated representative.
4. The department shall provide immediate relocation services for all MDHHS clients as well as those who do not have a responsible agency and will need assistance to relocate.

Once the adverse action steps for revocation or refusal to renew are finalized, as described in The Keys Amendment and Adverse Action process, the residents can be formally notified of the need for relocation.

If the adverse action is a summary suspension, the responsible agency must assure prompt action for the relocation of any residents. If there is no responsible agency, the department is responsible to provide relocation services.

The Adult Foster Care licensing consultant is to be kept informed of the status of relocation efforts.