

F610

(Rev. 173, Issued: 11-22-17, Effective: 11-28-17, Implementation: 11-28-17)

§483.12(c) In response to allegations of abuse, neglect, exploitation, or mistreatment, the facility must:

§483.12(c)(2) Have evidence that all alleged violations are thoroughly investigated.

§483.12(c)(3) Prevent further potential abuse, neglect, exploitation, or mistreatment while the investigation is in progress.

§483.12(c)(4) Report the results of all investigations to the administrator or his or her designated representative and to other officials in accordance with State law, including to the State Survey Agency, within 5 working days of the incident, and if the alleged violation is verified appropriate corrective action must be taken.

INTENT

The facility must take the following actions in response to an alleged violation of abuse, neglect, exploitation or mistreatment:

- Thoroughly investigate the alleged violation;
- Prevent further abuse, neglect, exploitation and mistreatment from occurring while the investigation is in progress; and
- Take appropriate corrective action, as a result of investigation findings.

NOTE: Refer to F609 for the requirement to report the findings of the investigation within 5 working days.

GUIDANCE

Facility's Investigation of Alleged Violations

For all alleged violations of abuse, neglect, exploitation, misappropriation of resident property, exploitation, and mistreatment, including injuries of unknown source, the surveyor reviews whether the facility maintains evidence that all alleged violations are thoroughly investigated.

There is no specific investigation process that the facility must follow, but the facility must thoroughly collect evidence to allow the Administrator to determine what actions are necessary (if any) for the protection of residents. Depending upon the type of allegation received, it is expected that the investigation would include, but is not limited to:

- Conducting observations of the alleged victim, including identification of any injuries as appropriate, the location where the alleged situation occurred, interactions and relationships between staff and the alleged victim and/or other residents, and interactions/relationships between resident to other residents;
- Conducting interviews with, as appropriate, the alleged victim and representative, alleged perpetrator, witnesses, practitioner, interviews with personnel from outside agencies such as other investigatory agencies, and hospital or emergency room personnel;

- Conducting record review for pertinent information related to the alleged violation, as appropriate, such as progress notes (Nurse, social services, physician, therapist, consultants as appropriate, etc.), financial records, incident reports (if used), reports from hospital/emergency room records, laboratory or x-ray reports, medication administration records, photographic evidence, and reports from other investigatory agencies.

Even if an alleged violation was reported to law enforcement as a reasonable suspicion of a crime committed against a resident, the facility must still conduct its own internal investigation to the extent possible, in consultation with the law enforcement authority. When law enforcement is contacted the facility must not impede the investigation and must maintain any potential evidence (e.g., clothing, linens, etc.) as instructed by law enforcement. It has been reported that some investigations were impeded due to washing linens or clothing, destroying documentation, bathing or cleaning the resident before the resident has been examined, or failure to transfer a resident to the emergency room for examination including obtaining a rape kit, if appropriate.

Prevention

Depending on the nature of the alleged violation, the facility must immediately put effective measures in place to ensure that further potential abuse, neglect, exploitation, or mistreatment does not occur while the investigation is in process.

Examples of instances where the facility failed to provide protections include, but are not limited to:

- The alleged perpetrator continues to have access to the alleged victim and/or other vulnerable residents;
- Retaliation occurs against a resident who reports an alleged violation;
- A resident who continually fondles other residents is moved to another unit, where he/she continues to exhibit the same behaviors to other residents;
- A resident with a history of striking is left unsupervised with a resident who has been targeted in the past and/or other residents; and
- The facility conducts an inadequate investigation and ceases temporary resident protection measures that were implemented as a result of the alleged violation.

Examples of measures to protect residents include, but are not limited to:

- Monitoring of the alleged victim and other residents at risk, such as conducting unannounced management visits at different times and shifts;
- Evaluation of whether the alleged victim feels safe and if the he/she does not feel safe, taking immediate steps to alleviate the fear, such as a room relocation, increased supervision, etc.;
- Immediate assessment of the alleged victim and provision of medical treatment as necessary;
- Immediate notification of the alleged victim's practitioner and the family or responsible party;
- Removal of access by the alleged perpetrator to the alleged victim and assurance that ongoing safety and protection is provided for the alleged victim and, as appropriate, other residents;
- Notification of the alleged violation to other agencies or law enforcement authorities; and