

**TITLE 7 HEALTH**  
**CHAPTER 14 COMMUNITY BASED SERVICES**  
**PART 3 INCIDENT REPORTING AND INVESTIGATION REQUIREMENTS FOR PROVIDERS OF COMMUNITY BASED SERVICES**

**7.14.3.1 ISSUING AGENCY:** New Mexico Department of Health, Division of Health Improvement  
[7.14.3.1 NMAC – N, 2-3-03]

**7.14.3.2 SCOPE:** This rule is applicable to persons, organizations or legal entities that are under contract to provide services to the New Mexico Department of Health and/or the New Mexico Human Services Department under the following programs: Developmental Disability Waiver (DDW), Disabled and Elderly Waiver (D&EW), Medically Fragile Waiver (MFW) and Traumatic Brain Injury (TBI) and any additional programs that may require provider compliance with these requirements.  
[7.14.3.2 NMAC – N, 2-3-03]

**7.14.3.3 STATUTORY AUTHORITY:** Department of Health Act, NMSA 1978 Section 9-7-6 (E) and Sections 24-1-3 (L) (O) (T) and (U) of the Public Health Act, NMSA 1978 as amended.  
[7.14.3.3 NMAC – N, 2-3-03]

**7.14.3.4 DURATION:** Permanent.  
[7.14.3.4 NMAC – N, 2-3-03]

**7.14.3.5 EFFECTIVE DATE:** February 3, 2003, unless a later date is cited at the end of a section.  
[7.14.3.5 NMAC – N, 2-3-03]

**7.14.3.6 OBJECTIVE:** This rule establishes standards for provider compliance with the Department of Health (DOH) requirements with regard to the investigation of incidents occurring in DDW, D&EW, MFW and TBI programs and any additional programs that may require provider compliance with these requirements. The rule requires the timely reporting of specified client specific incidents and that timely access to records, personnel, service locations and clients be provided to DOH authorized representatives conducting investigations of such incidents.  
[7.14.3.6 NMAC – N, 2-3-03]

**7.14.3.7 STANDARD OF COMPLIANCE:** The degree of compliance required throughout these regulations is designated by the use of the words “shall” or “must” or “may.” “Shall” or “must” means mandatory. “May” means permissive.  
[7.14.3.7 NMAC – N, 2-3-03]

**7.14.3.8 DEFINITIONS:** For purposes of these regulations, the following shall apply:

- A. “Abuse”** means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish.
- B. “Client”** means any person who is requesting or receiving services from one or more service providers subject to these requirements.
- C. “DOH”** means the New Mexico Department of Health.
- D. “Developmental Disability Waiver (DDW)”** means a program offering community based services under the administration of the DOH Long Term Services Division for persons eligible based on the criteria described in 8.290.400.10 (B) NMAC.

**E. “Disabled & Elderly Waiver (D&EW)”** means a program offering community based services under the administration of the MAD for persons eligible based on the criteria described in 8.290.400.10 (A) NMAC.

**F. “Emergency Medical Services”** means the admission to a hospital or psychiatric facility or the provision of emergency services that results in medical care which is unanticipated for this individual and which would not routinely be provided by a primary care provider.

**G. “Environmental Hazard”** means an unsafe condition that creates an immediate threat to life or health.

**H. “HSD”** means the New Mexico Human Services Department.

**I. “Incident”** means a known, alleged or suspected occurrence of abuse, neglect, misappropriation (i.e. exploitation) of property; death; or an Other Reportable Incident (ORI) as defined in this rule.

**J. “MAD”** means the Medical Assistance Division of the New Mexico Human Services Department or successor agency.

**K. “Law Enforcement Intervention”** means the arrest or detention of a client by law enforcement, placement of a client in a detention or correctional facility, or involvement of law enforcement in a client specific occurrence.

**L. “LTSD”** means the Long Term Services Division of the New Mexico Department of Health.

**M. “Medically Fragile Waiver Provider (MFW)”** means a program offering community based services under the administration of the DOH Long Term Services Division for persons eligible based on the criteria described in 8.290.400.10 (C) NMAC.

**N. “Misappropriation of Property (i.e. exploitation)”** means the deliberate misplacement, exploitation, or wrongful temporary or permanent use of a client’s belongings or money without the client’s consent.

**O. “Neglect”** means the failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.

**P. “Other Reportable Incident (ORI)”** means an Environmental Hazard, Law Enforcement Intervention or Emergency Services as defined in this rule.

**Q. “Provider”** means a person, organization or legal entity under contract to provide services to the New Mexico Department of Health under the following programs: Developmental Disability Waiver (DDW), Disabled and Elderly Waiver (D&EW), Medically Fragile Waiver (MFW); or Traumatic Brain Injury (TBI) and any additional programs that may require provider compliance with these requirements.

**R. “Timely Access”** means physical or in-person, electronic or other access needed by authorized representatives of the DOH to conduct a quality review activity. Timely access means immediate access upon request unless immediate access is not possible, in which case the access shall be as prompt as reasonably possible.

**S. “Timely Reporting”** means reporting in accordance with the time frames specified in Section 7.14.3.8.11 of this rule.

**T. “Traumatic Brain Injury Provider (TBI)”** means a person, organization or other legal entity as specified in 24-1-24 NMSA 1978, operating under the administration of the DOH Long Term Services Division, which generally offers community based services to eligible clients.

[7.14.3.8 NMAC – N, 2-3-03]

**7.14.3.9 GENERAL PRINCIPLES:**

**A.** Providers of services within the scope of these regulations shall report all incidents of abuse, neglect, misappropriation, death or Other Reportable Incidents (ORI) on the specified form within the specified time frames in Sections 7.14.3.8 (S) of this rule.

**B.** Providers of services within the scope of these regulations shall facilitate timely access to records, personnel services, locations and clients for DOH authorized representatives conducting investigations of reported incidents of abuse, neglect, misappropriation, death or Other Reportable Incidents (ORI).

**C** Information obtained in the course of DOH reviews shall be submitted to appropriate DOH and/or HSD authority for review and any necessary remedy.

[7.14.3.9 NMAC – N, 2-3-03]

**7.14.3.10 CONFIDENTIALITY:** Client specific information reviewed or obtained in the course of quality assurance reviews of providers is confidential in accordance with all applicable federal and state law and regulation and with all applicable contract provisions. Other confidential information may include, but is not limited to: personnel records, the provider’s internal incident investigations, financial documents and proprietary business information.

[7.14.3.10 NMAC – N, 2-3-03]

**7.14.3.11 INCIDENT MANAGEMENT SYSTEM (IMS) REPORTING REQUIREMENTS:**

**A.** All alleged or suspected incidents shall be reported within 24 hours of knowledge of the incident (or the next business day if the incident occurs on a weekend or a holiday). Sending a facsimile copy (fax) or e-mail of the IR form to DOH satisfies this requirement.

**(1)** The current Incident Report (IR) form contained in the current Incident Management Manual must be used to assure appropriate and timely response when alleged or suspected incidents occur.

**(2)** If the allegation or suspicion involves a criminal act, or if the incident was a death occurring outside of a medical facility, the local Law Enforcement Agency shall also be contacted.

**B.** Failure to comply with the timely reporting of incidents as defined in Section 7.14.3.8 (S) and as specified in Section 7.14.3.11 of this rule may subject the provider to all penalties applicable under federal, state and/or contract authority. In addition to these requirements, providers remain subject to all other applicable state or federal reporting requirements.

[7.14.3.11 NMAC – N, 2-3-03]

**7.14.3.12 ACCESS AND COOPERATION TO FACILITATE PROVIDER INCIDENT INVESTIGATIONS:**

**A.** DOH shall review the quality of care delivered by providers. These reviews may be either announced or unannounced.

**B.** Providers of services shall facilitate timely physical or in-person access to:

**(1)** Provider records, regardless of media, including but not limited to: financial records, all client records, ISPs, IFSPs, personnel records, board and or committee minutes, incident reports, quality assurance activities, client satisfaction surveys and agency policy/procedures manuals;

**(2)** All provider personnel;

- (3) Clients currently receiving services from the provider;
- (4) Any information relevant to accessing guardians, representatives and family members;
- (5) All records, regardless of media, relating to former and deceased clients; and
- (6) All administrative and service delivery sites.

**C.** Failure to facilitate timely physical or in-person access as defined in Section 7.14.3.8 (R) of this rule may subject the provider to all available penalties and sanctions as provided in applicable federal, state and/or contract provisions.

[7.14.3.12 NMAC – N, 2-3-03]