Dear Colleague:

The purpose of this letter and enclosed document is to provide background on the Department of Public Welfare's (Department) current process for handling protective services investigations for adults with disabilities between the ages of 18 and 59, consistent with Act 70 of 2010. The Act requires the Department to procure, via a competitive bidding process, agencies to investigate adult protective services reports and provide necessary services. Until the procurement process has been completed, a transition process has been established for the investigation of these cases. The enclosed document describes how the Department will handle these investigations.

The Department anticipates that the procurement process will be completed and the selected vendors will be in place no sooner than July 1, 2014. The Department is also creating a statewide, toll-free hotline to take calls concerning individuals in need of protective services. Once this number is established, we will disseminate it. In addition, the Department will be providing other outreach efforts to describe our efforts related to adult protective services. Finally, the Department is in the process of developing proposed regulations for this program. The Department will be providing a draft of these regulations for public comment and review prior to submission into the formal regulatory review process.

For inquiries related to the information contained in this document, please contact the Department via email at RA-PWARLHeadquarters@pa.gov. Thank you for your attention to this matter and your efforts to allow Pennsylvanians with disabilities to live independent, safe and healthy lives.

Sincerely,

Karen K. Deklinski
Deputy Secretary for Administration

Bonnie L. Rose
Deputy Secretary for Long Term Living

Fred Lokuta
Deputy Secretary for Developmental Programs

Dennis Marion
Deputy Secretary for Mental Health and Substance Abuse Services

Enclosure
Adult Protective Services Transition Process

Background:

The Adult Protective Services Act (Act 70 of 2010) created a protective services program for adults with disabilities between the ages of 18 and 59. Under the Act, the Department of Public Welfare (DPW) is the designated agency to administer the program. The Act requires the Department to, through a competitive bidding process, contract with agencies to investigate allegations of abuse, neglect, exploitation, or abandonment and provide protective services to adults found in need. The services provided by the contract agencies are only short term in nature and are to detect, prevent, reduce and eliminate abuse, neglect, exploitation and abandonment.

The Act defines an adult as “A resident of this Commonwealth between 18 and 59 years of age who has a physical or mental impairment that substantially limits one or more major life activities.”

The Department anticipates that the contracted vendor(s) will be in place no sooner than July 1, 2014. As such, the Department has developed a transition phase process in conjunction with the Pennsylvania Department of Aging (PDA) to investigate allegations of abuse, neglect, abandonment or exploitation. This document provides a description of how cases will be handled until the contracted adult protective services agencies are in place.

Investigation of Cases:

Investigations For Adults Who Are Not Current DPW Consumers or Not Residing in a DPW-Licensed Facility:

For allegations of abuse, neglect, exploitation or abandonment of adults who are not currently a consumer of a DPW service or a resident of a DPW licensed facility, the report will be investigated by the participating Older Adult Protective Services Agency. As not all OAPSA agencies are participating, investigations will also be conducted by staff and contractors of DPW and PDA. Please see the attached map for how coverage will occur. The APS investigating entity will implement the following procedures:

- Assure investigations deemed Priority, begin immediately and to the extent feasible, the agency shall conduct a face-to-face interview with the adult no later than 24 hours from the referral.
- If the adult is in need of immediate medical or local law enforcement intervention, call 911. The agency will also contact law enforcement when there is cause to
suspect sexual abuse, serious injury, serious bodily injury or a death that is suspicious.

- Assure investigations deemed Non-priority begin within 72 hours from the referral of the report.
- Enter the relevant demographic and case-specific information into the Social Assistance Management System (SAMS) database for each case in a timely manner. In addition, enter all protective services purchased and provided into SAMS, similar to the process for OAPSA cases.

If the findings of the investigation support that protective services are required, the APS investigative entity will arrange for the immediate provision of interim services to meet the victim’s needs (e.g., home health services, emergency shelter, personal assistance services, etc.). The APS investigative entity will seek the least-restrictive possible means of providing protective services to the victim.

The APS investigating agency will follow the existing protocols for OAPSA for investigation and the provision of services except where differences exist between the OAPSA protocols and the APS Act. The differences between the two were noted during the training provided to the participating OAPSA agencies. If the APS investigative entity has questions during the investigation that require further guidance, it should contact the APS Division within DPW or the OAPSA Division within PDA. The APS investigative entity will contact the DPW APS Division if any of the following situations arise:

- The alleged victim is at imminent risk of death, sexual abuse, serious bodily injury or serious injury, but refuses protective services
- Interim services are required for more than 30 days
- The APS investigative entity requires assistance in securing the cooperation of a service provider to provide interim services
- A recommendation is made to move the victim to a more restrictive setting

**Investigations Involving Current DPW Consumers or Adults Residing in Licensed DPW Facilities:**

For adults receiving services from a DPW program or residing in a licensed DPW facility, the responsible program offices will investigate the cases. These cases will be investigated using the existing protocols for the incident management process used by the responsible program office. The program office may contact the APS division for complex cases that require assistance. The DPW program office will track APS-related reports and investigations.
Investigations Involving Residents of DPW Operated Facilities (State Centers, State Hospitals and Youth Development Centers):

For alleged victims who reside in a DPW-operated facility, the facility should investigate the allegation(s) consistent with its established policy for such cases. Upon completion of the investigation, it will forward its findings to the APS Division within three (3) business days of completion of the report. The APS Division will review the investigative findings and determine if any further investigation or information is necessary.

**Mandatory Reporting of Suspected Abuse:**

(See Act 70, specifically Section 501 and the definitions of *employee* and *facility*)

The Act requires that an employee or administrator (of a facility) who has reason to suspect that a recipient is a victim of abuse or neglect shall make a report. The Act requires employees, including contractors, to report suspected abuse or neglect if they work for any of the following facilities:

- Assisted Living Facility
- Domiciliary Care Home
- Home Health Care Agency
- Home Care Agency
- Intermediate Care Facility for Individuals with Intellectual Disabilities
- Nursing Home
- Older Adult Daily Living Center
- Personal Care Home
- Residential Treatment Facility
- An organization or group of people that use public funds and is paid, in part, to provide care and support to adults in a licensed or unlicensed setting

During the transition phase, APS reporting requirements will be met if providers submit allegations according to their Department's established incident management protocols. If the incident is not covered by a current incident management protocol, then a call must be made to the Bureau of Human Services Licensing hotline at 1-877-401-8835. This is the interim hotline for these calls and it is anticipated that in the near future a statewide hotline for this program will be established.

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1 Once the contracted protective service agencies are in place the provider will also need to call the hotline in addition to submitting the incident through the existing incident management system. DPW will provide an announcement of when this will occur.
Procedure For Handling Employees Accused of Abuse and Neglect:

(See Act 70, specifically Section 501 and the definitions of employee and facility)

The Act requires, “On notification that an employee is alleged to have committed abuse or neglect, the facility shall immediately suspend the employee or where appropriate and subject to approval by the agency and by the appropriate state licensing department with regulatory authority over the facility, shall implement a plan of supervision.” During the transition phase, plans of supervision are to be submitted to the participating OAPSA agency and licensing agency. For those counties without a participating OAPSA agency, plans of supervision are to be submitted to the APS Division and licensing agency. Based upon the definition of Facility in Act 70, this applies to employees of the following:

- Assisted Living Facility
- Domiciliary Care Home
- Home Health Care Agency
- Home Care Agency
- Intermediate Care Facility for Individuals with Intellectual Disabilities
- Nursing Home
- Older Adult Daily Living Center
- Personal Care Home
- Residential Treatment Facility
- An organization or group of people that use public funds and is paid, in part, to provide care and support to adults in a licensed or unlicensed setting

Notification Process When The Abuse or Neglect is Criminal in Nature:

Employees and/or administrators who have reasonable cause to suspect that a recipient is a victim of abuse involving sexual abuse, serious injury, serious bodily injury or if a death is suspicious, shall immediately make an oral report to the APS investigative entity. In addition to reporting to the APS investigative entity, oral reports must be made to the PDA and local law enforcement. Within 48 hours of making all oral reports, the employee or administrator shall make a written report to the agency. Additionally, within 48 hours of making an oral report, the employee and the administrator shall make a joint written report to appropriate law enforcement officials for abuse involving sexual abuse, serious physical injury, and serious bodily injury or if a death is suspicious.

Coordination of Investigations:

To the fullest extent possible, law enforcement officials, facilities and agencies shall coordinate their respective investigations and advise each other and provide any
applicable additional information on an ongoing basis. Cases involving law enforcement, may, at the written request of the law enforcement agency, require law enforcement to take the lead.

Confidentiality of Information:

Information contained in reports, records of investigation, assessment and service plans shall be considered confidential. Except as provided in Section 306 of the Act, confidential information shall not be disclosed to anyone outside the agency other than to a court of competent jurisdiction pursuant to a court order. An agency’s access to confidential records held by other entities or individuals or an adult reported to be in need of protective services shall require the consent of the adult or a court-appointed guardian except as provided under Section 307 of the Act.

Assuring the Provision of Necessary Long-Term Supports:

Protective services are intended to be short-term, not to exceed 30 days. As such, it is imperative that adults who need long-term supports promptly receive an assessment, eligibility determination and enrollment into the least-restrictive, most-integrated service setting.

When an APS investigative entity identifies that an adult may need long-term supports, it shall notify the appropriate local entity responsible for the assessment/case management (i.e. MH/ID). If the case is not progressing in a timely fashion or there are differences of opinions on how the long-terms supports need to be handled, the APS investigative entity will contact the APS Division at 717.783.3670.

If the APS investigative entity is unsure about which agency is appropriate to serve the individual or there does not appear to be a program for the person, the APS investigative entity will contact the APS Division. The APS Division will work with the single points of contact within DPW to identify a service solution and assure that a decision is made.