



# **Detecting & Responding to Immediate Harm & Misuse**

Catherine Register-Riggle  
Georgia Advocacy Office

Deborah Kennedy  
Equip for Equality

# Defining Immediate Harm

- Emergency
- Immediate Jeopardy
- Imminent Danger
- Protective custody



## Emergency

---

A situation, physical condition, or one or more practices, methods, or operations that present imminent danger of death or serious physical or mental harm to consumers of a facility

---


**Specialized Mental Health  
Rehabilitation Facilities Code 2)**  
Code Citation: 77 Ill. Adm. Code  
380

# Immediate Jeopardy

- Immediate Jeopardy means a situation in which immediate corrective action is necessary because the provider's noncompliance with one or more requirements of participation or conditions of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to an individual receiving care in a facility.
- [https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/so\\_m107ap\\_q\\_immedjeopardy.pdf](https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/so_m107ap_q_immedjeopardy.pdf)

# OSHA

- Defines imminent danger as "... any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act."
- <https://www.osha.gov/as/opa/worker/danger.html>



# Taking children into temporary protective custody

- Local law enforcement officers, Department child protection staff, and physicians treating a child may take temporary protective custody of a child without the consent of the persons responsible for the child's welfare, if they have reason to believe that leaving the child in the home or in the care and custody of the child's caregiver presents an imminent danger to the child's life or health.
  - <http://www.ilga.gov/commission/jcar/admincode/089/089003000001200R.html>
-

# Case examples

- Condition of the home:
  - Puddles of urine and smeared feces
  - Broken furniture
  - Extreme lack of clothing and hygiene products
- Criminal investigation for theft of funds
- Beneficiary funds used to make payroll
- Distribution of benefits with cash payments without any security measures

# Proper use of Benefits

- A Representative Payee must use the funds for the benefit of the beneficiary. The funds should be spent on the beneficiary's current and reasonably foreseeable needs such as:
  - Food
  - Clothing
  - Shelter
  - Utilities
  - Medical care and insurance
  - Dental care





# Continued

- Personal hygiene
  - Education
  - Rehabilitation expenses
  - If there are funds left over once the beneficiary's current needs are met, the representative payee must save and/or invest the remaining funds in trust for the beneficiary.
-

# Misuse

- Misuse occurs when a representative payee converts payments for purposes other than the “use and benefit” of the beneficiary, or for certain legal dependents of the beneficiary, after the beneficiary's current and reasonably foreseeable needs are met
- Social Security Handbook 1617.2

# Representative Payees cannot:

- Use a beneficiary's funds for their own personal expenses, or spend funds in a way that would leave the beneficiary without necessary items or services (housing, food and medical care)
- Put a beneficiary's Social Security or SSI funds in the Representative Payee's or another person's account
- Keep conserved funds once they are no longer a Representative Payee for the beneficiary
- Charge the beneficiary for services unless authorized by the Social Security Administration to do so
- <https://oig.ssa.gov/what-abuse-fraud-and-waste/misuse-benefits-representative-payee>

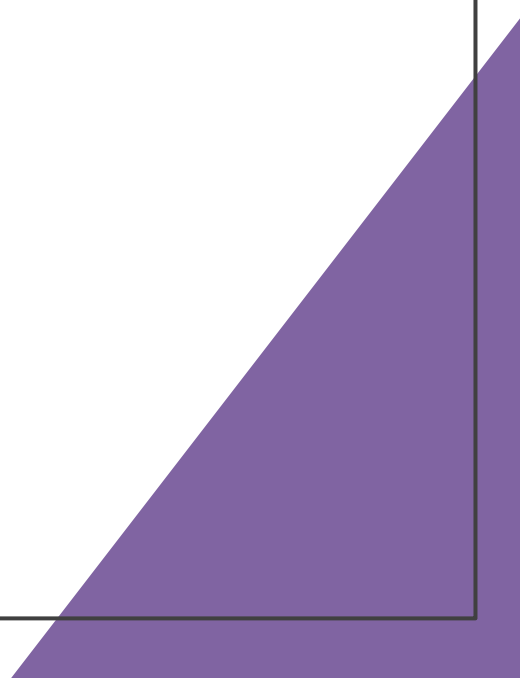
# Misuse vs. Improper Use

- Improper use of benefits is an unwise expenditure of benefits in a manner that is not in the beneficiary's best interest. Because the beneficiary still receives a benefit from the expenditure, this is not a misuse.

# Penalties for Misuse


- The penalty upon conviction for a payee's misuse of funds may be a fine of up to \$250,000, imprisonment up to 10 years, or both.
- When the case is not criminally prosecuted, SSA may impose a civil monetary penalty up to \$5,000 for each payment or partial payment misused and an assessment of not more than twice the amount of the misused benefits.
- Social Security Handbook 1617.8

# Red Flags

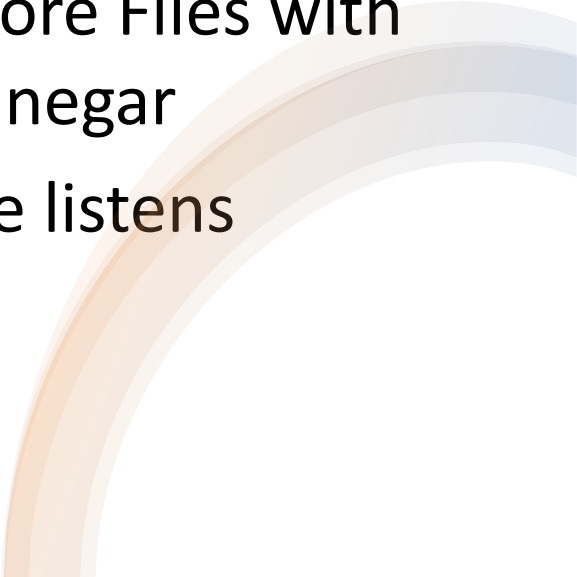
- Lack of documentation or records
  - Unusual Purchases
  - Large Purchases
  - Purchases not found
  - Group Purchases
  - Unsecured cash
- 

# Case examples

- Furniture and TVs found in common areas
- Receipts reflecting ordinary purchases from store more than 50 miles from individual's home
- Family vacations and gifts
- Frequent trips to the liquor store
- Hotel bills
- Uber rides
- Cash maintained in staff vehicles

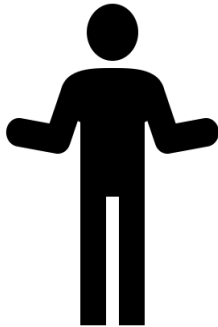


How to make  
friends and  
influence people  
-Dale Carnegie

- Adages that Stand the Test of Time
    1. Do Unto Others
    2. Check your baggage at the Door
    3. You can get more Flies with Honey than Vinegar
    4. He who is wise listens
- 



Immediate Harm or Misuse is suspected



What next?????

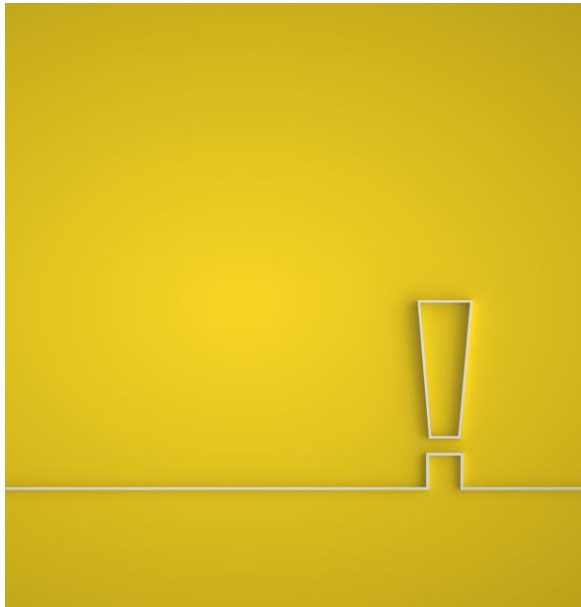


# Four Stages

- **Any misuse or immediate harm requires Four stages**
  1. Assess Immediate Safety
  2. Notification to Management
  3. Immediate Reporting
  4. Referrals Internally/Externally

# Determine the following

- Assess immediate safety. Answer the following Yes or No:
  - Is the environment safe
  - Does the Reviewer feel safe
  - Is the Beneficiary safe
  - Is the Payee safe



# If Reviewer answers Yes



Continue Review typically



Continue Review minimally attempting interviews with beneficiaries if possible



Gather copies of as much data as possible to continue Review off site

# If Reviewer answers No



Determine if you can address the safety issue with the Payee immediately



Discontinue the Review



Get to a safe location

# Notification to Management

1. Reviewer should notify manager at P and A
2. P and A manager will assist in determining immediate safety of:
  - a. Reviewer
  - b. Beneficiary
  - c. Payee



# Immediate Reporting

- Law Enforcement
- Regulatory licensing program over Nursing Facilities, Hospitals, Group Homes, In-home Care
- Adult Protective Services
- Departments of Public and/or Community Health
- Centers for Medicare & Medicaid Services



# Referrals Internally



- Social Security
  - Issue for Misuse
  - Notification for a more suitable Payee
  - Consistent Deficiencies



# Referrals Internally



- Internal programs in P and A
  - PADD
  - PAIMI
  - PABSS
  - PAIR
  - Investigations

# Partnerships through Outreach

- At Risk Adult Programs
  - In Georgia, ACT Team
  - Ombudsman office
  - Adult Protective Services
  - Regulatory Offices
  - Monitoring agents for ID/DD and BH Programs
  - District Attorney Offices
    - Human Trafficking Division





# Question/Answer

**Thank you!!!**

