



The Adult Protective Services (APS) Program is established and governed by Colorado Revised Statutes (C.R.S.) and the Colorado Code of Regulations (CCR)

About Adult Protective Services

Colorado operates as a state supervised, county administered system. County Adult Protective Services (APS) programs provide for the safety and protection of at-risk adults who are, or are suspected to be, victims of mistreatment. The County APS programs:

- Receive reports of mistreatment, which includes physical abuse, sexual abuse, caretaker neglect, exploitation and self-neglect;
- Investigate allegations and conduct an assessment of the client's strengths and needs; and
- Arrange for needed services to reduce risk and improve safety.

At-risk adults are defined as persons age 18 or older who are susceptible to mistreatment or self-neglect because the adult is unable to perform or obtain services necessary for his or her health, safety, or welfare or because they lack sufficient understanding or capacity to make or communicate responsible decisions concerning their person or affairs.

Caretaker neglect means neglect that occurs when adequate food, clothing, shelter, psychological care, physical care, medical care, or supervision is not secured for an at-risk adult or is not provided by a caretaker in a timely manner and with the degree of care that a reasonable person in the same situation would exercise.

A **Caretaker** is a person who:

- (a) Is responsible for the care of an at-risk adult, at-risk juvenile, or at-risk elder as a result of a family or legal relationship;
 - (b) Has assumed responsibility for the care of an at-risk adult, at-risk juvenile, or at-risk elder;
- or
- (c) Is paid to provide care, services, or oversight of services to an at-risk adult, at-risk juvenile, or at-risk elder

Exploitation means taking an at-risk adult's money or other assets against their will or without their knowledge. In other words, stealing from the adult. It also means deceiving, harassing, intimidating, or using undue influence to get the adult to do something against their will.

Physical Abuse occurs when someone causes bodily injury to an at-risk adult, such as causing physical pain or bruising; or when unreasonable confinement or restraint is imposed on the at-risk adult.

Sexual Abuse is sexual conduct, activity, or touching without the adult's consent or understanding.

Self-Neglect is defined as an act or failure to act whereby an at-risk adult substantially endangers their health, safety, welfare, or life by not seeking or obtaining services necessary to meet their essential human needs. Choice of lifestyle, by itself, is not proof of self-neglect.

APS Responsibilities

APS has certain statutorily established responsibilities

Confidentiality

Colorado statute requires that all reports to APS and all subsequent case information remain confidential unless a court orders a release of information for good cause. Any person who violates the confidentiality provisions in the APS statute is guilty of a crime and may be prosecuted.

APS may release essential information without a court order only when required to provide protective services or investigate possible criminal activities. Disclosures of information are limited to only the information necessary to arrange services or to assist in a criminal investigation.

These same restrictions limit the information APS can provide to the reporting party. Therefore, the reporting party is not entitled to any follow up or further information once they have made the report, unless it's necessary to provide protective services.

Self-Determination and Consent

Self-determination is the right of an adult to choose one's own course of action and/or outcomes without compulsion. The APS caseworker is required by statute and through the ethical principle of self-determination to get **consent** from the adult prior to providing any services.

Unless there is a law, code, or ordinance prohibiting or limiting a choice, the at-risk adult has the right to make lifestyle choices that others feel are objectionable or even dangerous, such as:

- Refusing medical treatment;
- Refusing to take necessary medications;
- Choosing to abuse alcohol or drugs;
- Living in a dirty or cluttered home;
- Continuing to live with the perpetrator;
- Keeping large numbers of pets; or
- Engaging in other behaviors that may not be safe.

Least-Restrictive Intervention

When an at-risk adult consents to services, the APS caseworker has an ethical and statutory requirement to arrange services that constitute the least-restrictive intervention. These are services implemented for the shortest duration and to the minimum extent necessary to meet the needs of the at-risk adult. Examples of least-restrictive intervention include:

- A day program or in-home services instead of placement in an assisted living facility; or
- A move to an assisted living facility instead of to a nursing home.

APS Limitations

Refusal of Services

Even after consenting to services, an at-risk adult may refuse to allow access to records or persons that could aid in providing those services, such as:

- Obtaining medical or bank records;
- Interviewing a suspected perpetrator; or
- Working with family to establish a care plan.

Self-determination means that the at-risk adult has the right to refuse services. If the adult refuses APS assistance and appears capable of understanding the consequences of doing so, he or she cannot be forced to accept any services. For example, a caseworker may determine that an adult

would benefit from meal preparation services and home health care. The adult agrees to meal services and refuses home health care.

Legal Advice and Authority

APS may not provide legal advice and may not complete legal documents for an adult, such as a Power of Attorney. APS may not force an adult to revoke or change a legal document, such as a will. APS may not force an adult to file a civil suit against a perpetrator.

Medical Decisions

APS may not be designated as an adult's medical proxy decision maker. APS may not petition for guardianship solely to make medical decisions*. But APS may make medical decisions if another party petitions the court and the court, with APS consent, appoints APS as the guardian and grants medical decision-making powers. *Section 15-18.5-103 (8) C.R.S.

APS Guardianship

An adult is entitled to make his/her own decisions until the court, through a guardianship hearing, determines he/she lacks the ability to make decisions that adequately provide for his/her physical health, safety, or self-care. County APS programs are not required to petition for guardianship or to become an adult's guardian, so each county establishes its own policy.

If the county APS program will petition for and/or accept appointment as a guardian, the county APS program is always the guardian of last resort. Guardianship is not a "quick fix," as it takes many weeks from initial casework to court hearing. It is only in rare situations that a court will grant an "emergency" guardianship. The court will usually limit the guardian's (county's) powers to those needed to protect the ward (client) at the time of the guardianship hearing. For example, the guardian may be given the power to make all financial decisions for the ward, to make only routine medical decisions, and to place the ward in a group home or assisted living facility.

APS may not take guardianship because of a lack of financial and staff resources. Guardianships are very time and resource intensive. APS will not take guardianship to place a competent adult in a long-term care facility or to prepare a discharge plan for an adult leaving a hospital or long-term care facility. Sometimes APS will not take guardianship because circumstances and/or the needs of the at-risk adult would prevent APS from being able to insure the adult's health, safety, or welfare. In these situations, guardianship would not resolve the at-risk adult's health, safety, or welfare concerns.

For example, even with a guardianship, APS cannot:

- Impose mental health treatment or medications;
- Impose alcohol or drug addiction treatment; or
- Place a developmentally disabled adult in a regional center.

If a ward's circumstances change and the needs of the ward are now beyond the limits in the guardianship order, the guardian must petition the court to modify the order. For example, the county APS program may change a ward's CPR directive or execute a CPR directive only if the court has granted that power in the guardianship order or in a subsequent hearing.

Making a report

Below is helpful information when making a report but, even if you don't have all this information, and you think an at-risk adult is being mistreated, you should still make a report.

1. What prompted the call today? Did something happen?
2. How is the adult being mistreated? When did you last see the adult?
3. Does the adult have any medical or physical conditions that impair the adult's ability to provide for day-to-day needs?
4. Does the adult have a diagnosed mental illness or show signs of a mental illness?
5. Does the adult have any problems with memory, decision making, or understanding how to care for him/herself?
6. Does the adult have any developmental, intellectual, or cognitive disability that is impairing the ability for self-care?
7. Has there been any decline in the adult's ability to adequately do cooking, shopping, using available transportation, managing medications, or mobility?
8. Is the adult working with any service providers to address his/her needs? Any friends or family that are supportive?
9. Have any actions been taken yet that address your concerns?
10. Can you think of anyone else who might have additional information?

If your call is about caretaker neglect:

1. Remember that a caretaker can be paid or unpaid, family, a home health provider, spouse, child, neighbor, friend, or facility staff.
2. Does the caretaker misuse drugs or alcohol?
3. Does the caretaker isolate or prevent outside contact with the adult?
4. Does the adult demonstrate fear of the caretaker?
5. Is the caretaker financially dependent on the adult?
6. Is the caretaker depriving the adult of basic necessities?

If your call is about exploitation:

1. Is anyone using the adult's money for their own personal needs without the adult's knowledge?
2. Has the adult's bank account been depleted?
3. Is there an unexplained disappearance of funds or valuables?
4. Has there been questionable transfer of assets or real estate?

If your call is about physical abuse or sexual abuse:

1. Does the adult have any current injuries?
2. Does the alleged abuser have access to the adult?
3. Does the adult demonstrate any fear of the alleged abuser?
4. Has the adult experienced any pain as a result of the abuse?

If your call is about self-neglect:

1. Is the adult malnourished or dehydrated as a result of self-neglect?
2. Is the adult's hygiene poor resulting in health hazards?
3. Is the adult hoarding and as a result the living situation is unsafe?
4. Does the adult have any untreated medical or mental health needs?

5. Is the adult homeless?
6. Is the adult aware of his/her needs?
7. Is the adult able to provide for his/her own basic needs?

Source: <https://www.coloradoaps.com/about-adult-protective-services.html> (January 23, 2018)