

Form OPWDD 149: Investigative Report Format -- Completion Instructions
(issued 2/17/12)

All provider agencies, including DDSOs, will be required to use the OPWDD 149, or a similar reporting format, for investigations of reportable and serious reportable incidents and allegations of abuse effective March 15, 2012. The requirement applies to investigations of incidents that occur or are discovered on or after March 15, 2012.

There may be occasions when one OPWDD 149, or similar report, can be used to document an investigation into more than one incident, such as in a case when interviews conducted during the investigation into one incident result in the identification of other similar or related incidents. Additional allegations may be reported separately in IRMA, but can be investigated simultaneously with investigative activities documented in one report, as long as details that are specific to one allegation, but not the other(s), are clearly identified in each section of the report, using the master incident numbers assigned to each incident in IRMA.

In the event that the information to be entered in the OPWDD 149 exceeds the box size on page 1 (e.g. ten names must be entered), note that the size of the boxes can be expanded as the form is a Word document.

The OPWDD 149 and these completion instructions are available to provider agencies on the OPWDD website at www.opwdd.ny.gov.

For questions about completing the form that are not addressed in the instructions, please contact OPWDD's Incident Management Unit by e-mail at incident.management@opwdd.ny.gov.

Line by Line Completion Instructions

Person Receiving Services:

Enter the full names of all persons receiving services to whom the incident or alleged abuse occurred. Do not use nicknames.

Address:

Enter the full street address of the certified program where the incident occurred and include the program type (e.g. ICF, IRA, Family Care, Day Habilitation). For non-certified services identify the individuals' home addresses.

Incident Location:

Enter as detailed a description as possible of the location as first reported, such as: the third floor men's bathroom at the 12 East Main Street day habilitation program operated by agency X in Yonkers, NY. If the incident occurred, or allegedly occurred at the person's residential program, it is acceptable to identify a specific area at the "home address noted above." Sometimes the location can be unknown.

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DDSO: For state-operated programs or services enter the name of the DDSO that operates the program or service environment where the incident is reported to have occurred. For voluntary-operated programs or services enter the name of the DDSO office responsible for the geographic district where the incident is reported to have occurred.

Reporting Agency: Enter the name of the voluntary agency that operates the program or service environment where the incident is reported to have occurred. If the incident occurred in a non-certified service environment identify the service the individual receives from the reporting agency (e.g. Medicaid Service Coordination, Respite).

Master Incident Number: This refers to the master incident number that is automatically assigned to an incident once the initial incident reporting data is entered in IRMA. When one investigative report is used to document an investigation into multiple incidents every master incident number representing these incidents must be listed in this section of the investigative report. Note: For reportable incidents that are not entered into IRMA an "agency incident number" described below must be used for this purpose.

Agency Incident Number(s): Instructions for the completion of the OPWDD 147 initial incident report specify that providers should assign an incident or allegation reference number for each incident or allegation that is reported. When a single investigative report is used to document an investigation of multiple incidents, every master and/or agency incident number representing these incidents must be listed, as applicable, in the master and agency incident number sections of the investigative report.

Date/Time of Incident: Enter the dates and times of all incidents included in the investigation documented in the investigative report (using master and/or agency incident numbers for multiple entries, as noted above). This section must identify the date and time an incident or allegation was witnessed or known to have occurred.

Date/Time of Discovery: Enter the dates and times when agency staff discovered the incidents included in the investigation report.

For example, a staff member might see a person limping and notice evidence of a knee injury at a specific time and date, but no one witnessed a fall or other event that caused the injury and the person cannot tell staff how or when he was hurt. The date and time should be entered as "discovered at _ : _ pm on __/__/__."

Incident Classification: Enter the original incident classification(s), such as "allegation of physical abuse" or "reportable injury" (using master and/or agency incident numbers for multiple entries, as noted above) as they were documented on the OPWDD 147 or entered in IRMA.

Introduction/Description of Incident: Enter a basic description of the original incident that was reported. The description may be taken directly from the OPWDD 147 or may be re-phrased or elaborated on for clarity. This section must also include descriptions of any additional incidents

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discovered and investigated during the investigation (using master and/or agency incident numbers for multiple entries, as noted above).

For example:

2011-XX1051: 2011-XX1051: At 3:45am on 12/8/11, Direct Support Assistant (DSA) Melissa Works called the Administrator On Duty (AOD) Wendy Holmes to report that she witnessed her overnight shift co-worker DSA Michael Smith push facility resident Jerry Walker to the floor when Jerry attempted to leave his bedroom at approximately 3:30am that morning.

2011-XX1053: When interviewed during the evening on 12/8/11 Jerry's roommate Benjamin Lewis told the investigator that DSA Michael Smith had also hit and yelled at Jerry the previous night (the 12/7/11 overnight shift). Ben said that he pretended to be asleep when Michael was in the room. Ben said he told House Manager, Joseph Jones, about this in the morning on 12/7/11, but nothing was done.

Background Information: Enter general background information relevant to the individuals involved in the incident(s) under investigation, as well as relevant information about the environment or circumstances surrounding the event.

Example:

A review of Jerry Walker's Individualized Service Plan (ISP) revealed that he is a forty-five year old gentleman with diagnoses of Profound Mental Retardation, Chronic Obstructive Pulmonary Disease, and a seizure disorder. Jerry is able to ambulate independently. He is not able to offer testimony due to cognitive and communication deficits.

The residence is a five-bed IRA. Three individuals were away on vacation at the time of the incident. One individual was interviewed during this investigation.

Immediate Protections:

- (1) Melissa Works sat with Jerry on the floor while Wendy Holmes arranged for Registered Nurse Elizabeth Zee, from the agency-operated ICF next door, to immediately assess Jerry.
- (2) RN Zee examined Jerry and called 911 to send Jerry to the emergency room to assess right knee swelling and complaints of back pain.
- (3) Wendy Holmes placed Michael Smith on administrative leave and notified the New York State Police. (The police did not accept the case.)
- (4) Wendy Holmes also left Joseph Jones a message instructing him to report directly to the quality assurance director's office at 9:30am on 12/8/11.

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Investigatory Question: This section must include the specific question or questions which must be answered in response to the incident or allegation of abuse report(s).

For example, the following questions would be appropriate in the example noted in the introduction/description of incident section:

Did Michael Smith push Jerry to the floor in his bedroom at approximately 3:30am on 12/8/11?

On the previous night, did Michael Smith hit and yell at Jerry in Jerry's bedroom on the overnight shift?

Did Ben report this to Joseph Jones the next morning on 12/7/11?

Investigative Process: The investigative process comprises the gathering of testimonial, documentary, demonstrative, physical, and reviewed evidence as well as written statements taken from staff members and other relevant parties, as appropriate.

1.) Testimonial Evidence

a.) Interviews: Interviews should include known participants in the incidents and witnesses, including other persons receiving services, and other parties with relevant information to contribute to the investigation, such as physicians, treatment team members, or family members. Some parties may be interviewed more than once to clarify information or to resolve conflicting statements. The names of those interviewed, their titles (or roles), and the dates of their interviews, along with the name of the interviewer, must be documented, as follows:

The following individuals were interviewed during the course of this investigation:

<u>Name</u>	<u>Title</u>	<u>Date(s) Interviewed</u>	<u>Interviewer</u>
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b.) Interrogations (if applicable): Identify parties interrogated during the investigation in the same manner as interviews were documented above. Also identify additional parties present, such as a union representative or other official, and make note of any type of recording done (and where the recording can be found) during the interrogation.

<u>Name</u>	<u>Title</u>	<u>Date(s) Interviewed</u>	<u>Interrogator:</u>
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Notes:

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2.) Documentary Evidence: This section must include a list of specific reports and records relevant to the investigation such as a person's behavior support plan or a diagnostic report (X-ray, MRI, etc.) that are attached the investigative report. The listing must include the name of each report, the name of the person who signed or completed the reported, and the date each report was completed. Example:

The following documents were reviewed and copies are attached:

Examples:

D-1: A copy of the OPWDD 147, filed as an allegation of physical abuse for Jerry Walker, dated 12/8/11, signed by Direct Support Assistant Melissa Works

D-2: A copy of the OPWDD 147, filed as an allegation of physical abuse for Jerry Walker, dated 12/8/11, signed by Investigator Daniel Wise

D-3: A copy of Jerry Walker's Behavior Support Plan, dated 10/9/09, signed by Psychologist Margaret Jones

3.) Demonstrative Evidence: This section must include a listing of any evidence gathered that demonstrates or represents an actual object, action, or factor (including photographs, videotape, models, or graphs) relevant to the investigation.

Example:

DM-1: A photograph of bruises on Jerry Walker's left shoulder, taken by Registered Nurse Elizabeth Zee at 4:05am on 12/8/11

DM-2: A diagram of Jerry Walker's bedroom, completed and signed by Direct Support Assistant Michael Smith, dated 12/9/11

4.) Physical Evidence: This section must include a listing of any actual objects relevant to the investigation such as blood-stained or torn clothing or a broken piece of furniture that may have caused a fall. The list must identify where each object has been secured during the investigation.

Example:

P-1: Jerry's pajama pants, with a torn right knee, initially locked in the Registered Nurse Elizabeth Zee's desk at 4:10am morning on 12/8/11. The pajama pants were secured in the quality assurance office safe (where they remain to date) by the investigator Daniel Wise at 3:00pm that afternoon.

5.) Reviewed Evidence: This section must include a listing of any additional documents that were reviewed during the investigation, but were not copied or secured as part of the case file. The list must identify where the documents can be found.

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The following documents were reviewed, but copies were not made and placed in the case folder:

Example:

R-1: Individualized Service Plan (ISP) for Jerry Walker, dated 9/4/09, signed by service coordinator, Anna Lopez. This document can be found in Jerry's Medicaid Service Coordination binder.

6). Written Statements: Written statements must be obtained from witnesses relevant to the investigation. Written statements preserve testimony of a witness which has been obtained through interview. The written statements must be cataloged as follows in this section of the investigation report:

<u>Name</u>	<u>Title</u>	<u>Date(s) Interviewed</u>	<u>Interviewer</u>
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S-1

S-2

Factual Findings: This section must comprise a summation of factual information obtained from the evidence gathered during the investigation. Each discrete factual finding must be presented and numbered separately and each must include a reference to the source of the information. The findings are typically presented in chronological order.

This section must also include a finding which describes how the investigator identified the pool of potential witnesses to the incident.

(1) A review of bed check records revealed that three of the five individuals who reside at the residence were away on vacation on 12/8/11. During her interview, DSA Melissa Works reported that Jerry shares his second floor bedroom with Ben Lewis. A review of the current IRA communication log and time sheets showed that Melissa Works and Michael Smith were the only staff members on duty during the 12/8/11 overnight shift.

Conclusions:

An investigation into an allegation of abuse must determine if there was sufficient evidence to substantiate or disconfirm the allegation and the investigative report must clearly identify the disposition of the case as "substantiated", "disconfirmed", or "inconclusive". The investigative report must also identify the evidence that led to the conclusion.

Information contained in the factual findings often results in other types of conclusions about factors that contributed to the incident such as failure to address a person's increased maladaptive behavior or a failure to properly staff or manage a facility.

Each discrete conclusion must be numbered separately and must refer to the evidence that led to the conclusion.

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Example:

(1) It is concluded that the allegation of physical abuse, that Michael Smith pushed Jerry Walker on 12/8/11 is substantiated. This is based on the testimony of DSA Melissa Works and Jerry's roommate Ben Lewis and on a review of the photograph of the bruises on Jerry's left shoulder.

Recommendations:

The investigator's recommendations must be based on the conclusions and must include actions needed to address specific failures or omissions identified during the investigation.

Recommendations must also address systemic problems discovered during an investigation, such as staffing or oversight issues which were determined to be contributing factors to the incident.

Each discrete recommendation must be presented and numbered separately and each must refer to the conclusion that led to each recommendation.

Examples:

(1) It is recommended that the Residential Director take appropriate administrative action relative to the substantiated allegation of physical abuse that DSA Michael Smith pushed Jerry Walker on 12/8/11.

(2) It is recommended that the Medicaid Service Coordinator ensure the treatment team review Jerry Walker's behavior support plan relative to his required level of supervision.