

BROADCAST 7913

DATE: April 16, 2013

TIME: 8:00 a.m.

TO: Local Social Services Directors, Local Adult Services/Adult Protective Services Supervisors and Workers; Regional Directors

FROM: Paul McWhinney, Deputy Commissioner for Programs and Director of the Division of Family Services
Gail Nardi, Program Manager, Adult Services/Adult Protective Services

SUBJECT: Right of an Alleged Perpetrator in a Substantiated Case of Adult Abuse, Neglect or Exploitation

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Perpetrators of adult abuse, neglect or exploitation have the right to due process, including the right to be heard and to challenge to findings against them. The State Board of Social Services approved a proposed regulation to include this provision in August 2011. Until a final regulation is in place, local departments of social services must ensure due process is provided to alleged perpetrators.

Appropriate due process provides notice to the individual that he or she has been named as the alleged perpetrator in a substantiated case of adult abuse, neglect or exploitation and provides the individual with an opportunity to be heard. Substantiated cases are those with dispositions of “needs protective services and accepts”; “needs protective services and refuses”; and “need no longer exists.”

For those local departments not currently providing due process, this requirement is effective immediately. We will issue guidance to assist you with this process. It is our intent that this guidance will be the same or similar to the guidance that applies to the regulation when it becomes effective. We understand that this may cause a major shift in practice, however, it is a necessary requirement, based on the constitutional right to due process.