NC DHHS Adult Services: Statewide Goal FY25/26

Timely Mobilization of Protection for Substantiated Adult Protective Services (APS) Cases

STATEWIDE GOAL

One of the Division of Social Services, Adult Services priorities for state fiscal year 2025/2026 is to collaborate with county Departments of Social Services (DSS) to ensure the timely protection of disabled adults in substantiated Adult Protective Services (APS) cases.

To achieve this, the Division of Social Services, Adult Services is reviewing cases that do not demonstrate timely protection by requesting updates from county Departments of Social Services through monthly APS timeliness survey to assess delays in protection. All substantiated APS evaluations must receive timely protection, with service authorization efforts initiated on the same day the case decision is made.

While some cases require immediate service authorization and protection, in all cases, service authorization must be secured, or formally refused when the adult has capacity, within 14 days of the case decision, consistent with statutory timelines established in the following North Carolina General Statutes:

- G.S. 108A-104
- G.S. 108A-105
- G.S. 108A-106.

"Service authorization" means obtaining the adult's consent or a court order authorizing protective or emergency services on behalf of an adult who lacks the capacity to consent.

BASIS FOR SUBSTANTIATION

Per North Carolina Administrative Code rule 10A NCAC 71A .0209, a report of abuse, neglect, or exploitation of a disabled adult is **substantiated** when **all** of the following conditions are met:

1) *the adult is determined to be disabled as defined in G.S. 108A-101(d);*
2) *the adult is determined to be abused, neglected or exploited as defined in G.S. 108A101(a), (j), or (m); and*
3) *the adult is determined to be in need of protective services as defined in G.S. 108A101(e).*

TIMELY PROTECTION FOR SUBSTANTIATED APS CASES

1. When the Adult Has Capacity

When an APS case is substantiated and the adult is determined to have capacity to consent, G.S. 108A-104(a) requires that "*if the director determines that a disabled adult is in need of*

*protective services, he shall **immediately** provide or arrange for the provision of protective services, provided that the disabled adult consents."*

- **Immediate Action:** The county DSS director (or designee) must act without delay once the adult's consent is obtained.

- **Written Consent:** Per 10A NCAC 71A .0302 and APS policy, the social worker must obtain the adult's written or witnessed verbal consent to receive services (via the DSS-5027).

- **Refusal of Services:** If the adult has capacity and refuses protective services, 10A NCAC 71A .0302 and G.S. 108A-104(c) require that the refusal be respected. The worker must document the refusal, provide information on available services, and close the case.

- **Caretaker Interference:** If the adult consents but a caretaker refuses to allow services, G.S. 108A-104(b) allows the director to petition the district court using the Petition to Enjoin Interference With Protective Services (AOC-CV-780) for an Order to Enjoin Interference with Protective Services (AOC-CV-782) to ensure timely intervention.

TIMELINESS EXPECTATION:

Protective services should begin immediately upon substantiation and consent. Court action to address caretaker interference should be filed without delay to prevent risk escalation.

2. When the Adult Lacks Capacity

When an APS case is substantiated and the adult is determined to lack capacity to consent, the county DSS must act without delay to obtain the necessary legal authorization to provide protective services in accordance with G.S. 108A-105 through 108A-106.

- **Immediate Action:** Once the adult is found to lack the capacity to consent, DSS must promptly pursue the appropriate legal process to authorize services. Timely action is critical to prevent further abuse, neglect, or exploitation.

- **Non-Emergency Situations:** Under G.S. 108A-105(b), the court must schedule a hearing **within 14 days** after the petition is filed and provide at least five days' notice of the hearing to the adult. These statutory timelines reflect the North Carolina General Assembly's intent that the authorization to provide protective services be obtained quickly once a case is substantiated and capacity determined.

- **Emergency Interventions**: In cases where there is reasonable cause to believe the adult may suffer irreparable harm or death, G.S. 108A-106 authorizes the director to petition the court immediately for emergency intervention and to obtain an order authorizing emergency services upon 24 hours' notice or no notice to the adult, depending on the threat of harm to the adult.

TIMELINESS EXPECTATION:

After substantiating the need for protective services and rendering the capacity decision, the agency must obtain service authorization without delay and prior to providing services. If a county determines that a disabled adult lacks both capacity and a legally authorized surrogate decision-maker to consent, DSS must seek prompt legal authorization to ensure protection, but in all cases where the adult lacks capacity, service authorization must be obtained within 14 days of a case decision. To minimize risk and safety concerns for adults who have already been determined to be disabled, maltreated, and in need of protection, DSS should be prepared to file the necessary petition on the same day the case decision is made, based on the information gathered during the evaluation.

SUMMARY

Capacity Status	Authority	Timeliness Requirement	Protective Action
Has capacity and consents	G.S. 108A-104(a) 10A NCAC 71A .0302	Immediately upon consent	Provide or arrange services; document consent
Has capacity and refuses	G.S. 108A-104(c) 10A NCAC 71A .0302	Immediate documentation	Respect refusal; document and close case
Has capacity and caretaker interferes	G.S. 108A-104(b)	File petition without delay	Order to Enjoin Interference (AOC-CV-782)
Lacks capacity (nonemergency)	G.S. 108A-105 10A NCAC 71A .0903	File petition without delay, hearing within 14 days of petition	Order Authorizing Protective Services (AOC-CV-770)
Lacks capacity (emergency)	G.S. 108A-106 10A NCAC 71A .0904	Immediate filing; court may issue immediate order ex parte	Emergency Order (AOC-CV-770) up to 14 days; may subsequently obtain an Order Authorizing Protective Services

LEGAL MECHANISMS

North Carolina provides three legal mechanisms for authorizing services in APS cases as follows:

1. **Ex Parte Order for Emergency Services:** Authorized under G.S. 108A-106(d), this order may be issued immediately without prior notice when there is a likelihood that the adult may suffer irreparable injury or death if the emergency services order is delayed and reasonable attempts have been made to locate interested parties and secure from them such services or their consent to the provision of such services.

2. **Emergency Order for Protective Services:** Also governed by G.S. 108A-106, this allows for expedited judicial review and authorization when there is a substantial danger of death or irreparable harm if protective services are not provided immediately, there is no other person authorized by law or court order to give consent or who is available and willing to arrange for emergency services, and urgent action is needed but the situation does not require an ex parte order.

3. **APS Order Authorizing Protective Services**: Under G.S. 108A-105, when there is no likelihood of irreparable harm or death but the adult has been found to be disabled and in need of protection, the court must hold a hearing and issue an order authorizing services. The court shall set the case for hearing within 14 days after the filing of the petition.

CONCLUSION

These statutes, administrative code rules, and policies establish expectations for the timely mobilization of protective services for disabled adults in substantiated APS cases, ensuring protection begins immediately in emergencies or within 14 days in non-emergency situations to uphold North Carolina's commitment to its most vulnerable citizens.