

## **Employment and Community First CHOICES Critical Incident Management System Recommended Revisions to May 1, 2016 Version**

### **Overview of Critical Incident Management in Employment and Community First CHOICES**

Critical incident management (CIM) is an important component of an overall approach for assuring the health, safety and welfare of individuals participating in home and community based services (HCBS). CIM in Employment and Community First CHOICES (ECF CHOICES) has been designed in partnership with TennCare, the Department of Intellectual and Developmental Disabilities (DIDD), MCOs, and with input from HCBS providers.

Within ECF CHOICES, the CIM system is designed to:

- Define Non-Reportable Events that providers must address internally through their own quality assurance processes;
- Define the Reportable Events that must be reported to the state and/or to a Managed Care Organization (MCO);
- Assures that provider agencies, their staff, MCO Support Coordinators and others are well informed of their responsibilities to identify events that are reportable;
- Specifies the timeframes within which Reportable Events must be reported, to whom, and the reporting process;
- Specifies the types of Reportable Events that require investigation or review, by whom, the timeframes for such investigations or reviews, and how the individual (and/or family and legal representative as appropriate), providers and others are informed of the results of an investigation or review;
- Defines the processes for determining if specific Reportable Events are classified as Critical Incidents and the actions that must be taken when such a determination is made;
- Ensures a collaborative process between all partners to:
  - Track Reportable Events, including those determined to be Critical Incidents; and
  - Trend data to evaluate the nature, frequency and circumstances of Critical Incidents and determine how to prevent or reduce similar occurrences in the future.

The overall CIM approach must also assure that persons supported (and involved family or other unpaid caregivers, as appropriate) are informed about their rights and protections, including how they can safely report any event they believe compromises the health, safety, individual freedom or quality of life of an ECF CHOICES member.

There are important differences between the CIM system for ECF CHOICES and the Protection from Harm system in place for current HCBS waivers for individuals with intellectual disabilities. One notable difference is that, consistent with expectations set forth in the HCBS settings rule, person-centered planning in ECF CHOICES is intended to identify and mitigate risk of harm, while not placing unnecessary restrictions on the freedom and choices of persons supported, nor preventing opportunities for persons supported to achieve increased independence and autonomy as they participate fully in community life. This will have important implications for CIM in ECF CHOICES. Staff who provide HCBS in ECF CHOICES are accountable for ensuring the supports are provided in accordance with each individual's person centered support plan (PCSP), including

implementation of strategies identified to help mitigate risk<sup>1</sup>, but should not be held responsible if, in spite of appropriate supports and implementation of appropriate and reasonable risk mitigation strategies, an untoward event occurs. This distinction supports the ECF CHOICES programmatic commitment to embrace dignity of risk and a recognition that the normal taking of risks in life is essential for personal growth and development and maximizing quality of life. ECF CHOICES is designed to balance health and safety with happiness, to ensure members achieve the best possible employment and community living outcomes, and overcome low expectations through opportunities to develop and use the gifts, skills and capacities they have to achieve unique and fulfilling lives.

Another key feature of the CIM system for ECF CHOICES is that the MCOs are in a leadership role, with DIDD playing a supporting role specifically in regard to conducting investigations for Tier 1 reportable events when required. MCOs will implement the current collaborative approach they use with contracted providers in the CHOICES program to make sure that important information sharing is occurring between ECF CHOICES providers and the MCOs and the MCO is taking the lead in working with providers to ensure that appropriate services and supports are being provided to ECF CHOICES members.

### **Statutory Definitions Relevant to Critical Incident Management**

**Abuse:** Tennessee Code Annotated (TCA) 33-2-402(1): “Abuse” means the *knowing* infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish;

Abuse (of all forms) is a “knowing” or “willful” act.

“Mental anguish” is defined as significant psychological distress that is intense or persistent, and may include fear, anxiety, stress, humiliation, depression, trauma, or grief. In order to be considered mental anguish, the psychological issues experienced must be intense and/or persistent and linked to the actions of the [alleged] perpetrator. Includes instances of intentional abuse that would result in such mental anguish in a reasonable adult regardless of age or disability.

i. **Physical Abuse** can be defined as actions including, but not limited to, any physical force, motion or action by which physical harm, pain or mental anguish is inflicted or caused and/or the use of any unauthorized restrictive or intrusive procedure to control behavior or punish. Corporal punishment, takedowns, prone and supine restraints are prohibited and considered physical abuse.

ii. **Sexual Abuse** can be defined as any type of sexual activity or contact with sexual intent or motivation between a person supported and a staff person, employee, contracted provider, volunteer, or other person interacting with the person supported (e.g., roommate, acquaintance, caregiver, etc.). This includes but is not limited to actions by which a person is **coerced** into sexual activity (**forced, tricked, induced or threatened**) or exposed to sexually explicit material or language. **Sexual battery by an authority figure** as defined in T.C.A. § 39-13-527 is also considered sexual abuse. Sexual abuse in this situation **occurs whether or not a person is able to give consent** to such activities.

iii. **Emotional/Psychological Abuse** can be defined as a series of repeated incidents, a pattern of behavior, or a particularly egregious instance of humiliation, harassment, threats of punishment or deprivation, intimidation or demeaning or derogatory communication (vocal, written, gestures) or

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<sup>1</sup> While a PCSP can define many potential risk scenarios for an ECF member, and the team developing the PCSP should address the most prudent risk mitigation strategies that are appropriate and reasonable for these identified risks, other risks, if identified by the ECF provider as part of determining how the provider will implement the PCSP with the member, will need to be addressed by the provider and the provider will need to identify the appropriate risk mitigation strategies.

acts resulting in mental anguish, directed to or within eyesight or audible range of the person supported. While every instance of such behavior is unacceptable and must be addressed as defined below, not every instance of such behavior rises to the level of emotional or psychological abuse. Emotional/Psychological Abuse can include an event that negatively affects a person and triggers a behavioral episode that requires intervention by medical personnel, crisis services such as mobile crisis, EMT, ER, and/or law enforcement, etc.

**Neglect:** TCA 33-2-402(9): “Neglect” means failure to provide goods or services necessary to avoid physical harm, mental anguish, or mental illness, which results in injury or probable risk of serious harm;

**Neglect Threshold-** In order to be considered “neglect,” an act or omission of an act must have led to serious injury to the person supported or another person (i.e. housemate, community member, staff, etc.); or resulted in probable risk that serious injury could have occurred as the result of such action or omission. “Probable risk” means that it is more likely than not (a greater than 50% chance of occurrence). A “serious injury” is as defined in Tier 1 Critical Incidents below.

- Except for extenuating medical circumstances of a person supported (e.g., a compromised immune system), failure to seek medical attention for a cold or minor illness is not neglect, as there was not probable risk of serious injury.
- Feeding a person with dysphagia whose dietary plan calls for *only* finely ground food a hot dog would constitute neglect, even if the person did not choke, as there was probable risk of serious injury or death from choking.

**Misappropriation:** TCA 33-2-402(8): “Misappropriation of property” means the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of belongings or money (illegally or improperly using a person or person’s resources for another’s profit or advantage).

Misappropriation includes such deliberate action, with or without the consent of a person supported.

**Misappropriation Threshold-** In order to be considered “misappropriation,” the property must be valued at more than \$500 (class E felony).

## A. Non-Reportable Events and Requirements

Non-Reportable Events shall include circumstances that are not Reportable Events, as defined herein. Non-Reportable Events include the following when related to a person supported by ECF CHOICES services:

- Allegations that provider personnel (employees, volunteers) engaged in disrespectful or inappropriate communication about a person [e.g., humiliation, harassment, threats of punishment or deprivation, intimidation or demeaning or derogatory communication (vocal, written, gestures)] or any other similar acts that do not meet the definition of emotional or psychological abuse and which are not directed to or within eyesight or audible range of the person supported.
- Failure to provide goods or services when such failure does not result in injury or probable risk of serious harm (i.e., does not meet neglect threshold)
- Minor injury not requiring medical treatment beyond first aid by a lay person and not associated with abuse or neglect [Note: Provider personnel who do not have formal medical training, and who may or may not be med-certified by DIDD, are considered lay persons; however, if a provider has a medical professional on staff (e.g. RN, EMT, Physician’s Assistant, MD) who provides face-to-face treatment for the injury, this would be considered an injury requiring medical treatment.]
- Staff misconduct that falls outside the definitions for Tier 1, Tier 2 or Tier 3 Reportable Events and does not result in serious injury or probable risk of serious injury. Examples would include: failure to follow the PCSP /BSP/Dining Plan etc. when such action (or inaction) poses no probable risk of serious

injury; staff convenience (e.g., taking a person with you to run personal errands etc., rather than supporting the person in the activities they choose); or minor traffic violation while transporting person.

Providers are expected to document, review, address and track and trend Non-Reportable Events because of the potential to positively impact quality of care and health and safety for all members served by that provider. Each provider's Non-Reportable Events and its internal tracking and trending efforts shall be reviewed as part of ongoing quality monitoring efforts by the MCO and DIDD.

ECF CHOICES providers are not required to report Non-Reportable Events to any external entity except in instances when the provider conducts its review and determines that the Event is a Reportable Event.

- If it is determined to be a Tier 1 Reportable Event, the provider will **immediately notify DIDD** by a **phone call** to the appropriate hotline number in the corresponding region, **and submit an ECF Reportable Event Report Form (RERF) via data exchange by the close of the next business day.**
- If it is determined to be a Tier 2 Reportable Event, the provider will **notify the MCO and DIDD** by the **close of the next business day.**
- If it is determined to be a Tier 3 Reportable [Medical or Behavioral] Event, the provider will **notify the MCO** within **two (2) business days.**

All subsequent processes, including investigation, review, etc. shall proceed as outlined herein.

## **B. Reportable Events and Requirements**

In ECF CHOICES, there are three tiers of Reportable Events. The type of Reportable Event dictates the reporting requirements and process that must be followed by the provider, MCO, and DIDD (if applicable).

### **Tier 1 Reportable Events:**

Tier 1 Reportable Events shall include the following when involving a person supported by ECF CHOICES services:

- Allegations or suspicion of **abuse** (physical, sexual and emotional/psychological), **neglect or exploitation** resulting in physical harm, pain, or mental anguish
  - Abuse, neglect, and exploitation shall be defined as in TCA 33-2-402 and implemented as specified in TennCare protocol.
  - Sexual abuse includes sexual battery by an authority figure as defined in TCA 39-13-527;
- All unexplained or unexpected deaths (including suicide)
- Serious injury, including serious injury of unknown cause
  - Serious Injury is any injury requiring face-to-face medical treatment beyond first aid by a lay person, including (but not limited to):
    - Fractures
    - Dislocations
    - Concussions
    - Cuts or lacerations requiring sutures, staples, or Dermabond
    - Torn ligaments (i.e., a severe sprain) or torn muscles or tendons (i.e., a severe strain) requiring surgical repair
    - 2<sup>nd</sup> and 3<sup>rd</sup> degree burns
    - Loss of consciousness

[Note: Provider personnel who do not have formal medical training, and who may or may not be med-certified by DIDD, are considered lay persons; however, if a provider has a medical professional on staff (e.g. RN, Physician's Assistant, MD) who provides face-to-face treatment for the injury, this would be considered an injury requiring medical treatment.]

- A suspicious injury (where abuse or neglect is suspected or the nature of the injury does not coincide with explanation of how injury was sustained)
- Vehicle accident while transporting person resulting in injury requiring face-to-face medical treatment beyond first aid by a lay person; serious traffic violation with significant risk of harm (e.g., reckless, careless or imprudent driving; driving under the influence, speeding in excess of 15 miles per hour over the speed limit)
- Medication error resulting in the need for face-to-face medical treatment based on injury or probable risk of serious harm, including provider's trained medical staff, physician services, emergency assistance or transfer to an acute care facility for stabilization.
  - Errors involving:
    - Medication omission
    - Wrong drug
    - Wrong dose
    - Wrong person
    - Wrong time
    - Wrong rate
    - Wrong preparation
    - Wrong route of administration
- Theft by provider personnel (employees or volunteers) of more than \$500 (Class E felony)

#### **Tier 1 Reportable Events: Reporting Requirements**

- Tier I Reportable Events **must be reported to DIDD immediately**, but no later than 4 hours after occurrence or discovery of occurrence. Report to DIDD using appropriate hotline number in the corresponding region
- The ECF CHOICES provider Incident Management Coordinator (IMC) or designee must submit a written, preferably typed, ECF Reportable Event Report Form **via data exchange** to both DIDD and the MCO by **close of the next business day** after the telephone report to DIDD is made.
- The ECF CHOICES provider and the MCO will **not** move forward with their own "reviews" if a Tier 1 Reportable Event has been reported.
- All Tier 1 Reportable Events will be reported to TennCare by DIDD **within 24 hours** of receipt of ECF Reportable Event Report Form **via data exchange**.

#### **Process for Investigation of Tier One Reportable Events (including referral)**

- Tier 1 Reportable Events must be reported to DIDD as soon as possible, but no more than 4 hours after the occurrence or discovery of the occurrence. If applicable, DIDD will give instructions for administrative leave requirements as stated herein.
- DIDD is available 24/7 via Investigations Hotlines (East: 800-579-0023, Middle: 888-633-1313, West: 888-632-4490) for Tier 1 Reportable Event Reports
- DIDD is responsible for investigating all Tier 1 Reportable Events
- DIDD will communicate with the provider to obtain any additional information needed to support verification that the Reportable Event is appropriately classified as Tier 1.
  - If DIDD determines that the Reportable Event is not Tier 1:
    - DIDD will amend the ECF Critical Incident Report Form and send to the provider and the appropriate MCO via data exchange **by close of the next business day**; and
    - DIDD will send any supporting documentation to the MCO via data exchange **by the close of the next business day**.

- MCO will follow established processes for Tier 2 Reportable Events. The MCO's required timelines will begin the day the MCO receives the amended ECF Critical Incident Report Form and supporting documentation from DIDD via data exchange.
- If DIDD determines that the Reportable Event is Tier 1:
  - DIDD will issue to the provider and the appropriate MCO an Initial Notification of intent to investigate via data exchange **by close of the next business day**.
  - DIDD will complete its investigation **within 30 days** of notification of the Reportable Event.
  - If the investigation is not completed within 30 days, due to uncontrollable circumstances such as law enforcement involvement, or difficulties obtaining documentation from external entities such as a hospital, DIDD may utilize an extension period of up to **30 additional days** for completion of the investigation. DIDD may not utilize an extension for staff convenience. DIDD will notify the MCO via agreed upon data exchange of the extended time period.
  - DIDD will simultaneously provide the completed CIM investigation report to the provider and MCO, and will, at the same time, **submit notification of a referral to the Abuse Registry Referral Committee** if substantiated, when applicable.
- All Tier 1 Reportable Event investigations will be reviewed by the MCO for potential quality of care issues and subsequent action will be taken by the MCO per their established policy.

#### **Tier 1 Reportable Events: Requirement for Administrative Leave or Non-Direct Contact**

- Except when an exception is granted by DIDD (as specified below), ECF CHOICES providers are required to immediately remove an employee or volunteer named in **Tier 1 allegations of physical or sexual abuse** from providing direct support to all ECF CHOICES and CHOICES members until DIDD has completed their investigation, either by placing the named employee or volunteer on administrative leave or in another position in which he or she does not have direct contact with, or supervisory responsibility for, a person(s) supported.
  - Providers (i.e., the Incident Management Coordinator or agency management, and **not** the named employee or volunteer) may request an exception to this requirement if:
    - 1) they furnish evidence of consent from the alleged victim (and legal representative of the alleged victim, if applicable);
    - 2) there are no presumed risks to other persons supported that the alleged perpetrator might come into unsupervised contact with; **and**
    - 3) other conditions, such as increased supervision and unannounced visits to the home by provider management, are undertaken. This could include modification of assignment short of full administrative leave, e.g., in the case of an allegation of neglect based on failure to follow a dining plan, the employee might be restricted from dining plan activities or permitted to administer the dining plan only under direct supervision. Such requests are reviewed and either approved or denied expeditiously by the DIDD Director of Investigations.
- The provider shall instruct all staff that the facts and circumstances being investigated are not to be discussed with anyone except the DIDD investigator or law enforcement officers.
- The DIDD investigator shall notify the provider that the person may return to work or volunteer status, as applicable, as soon as possible if determined *before* the investigation report is completed.
- ECF CHOICES providers shall determine, at their discretion and in accordance with their agency's policy, whether to remove an employee or volunteer named in a **Tier 1 Reportable Event other than alleged physical or sexual abuse** from any or all direct support to CHOICES and ECF CHOICES members until the provider has completed their investigation and, if the Reportable Event is determined to be a Critical Incident, until the completion of any corrective action (e.g., training) deemed appropriate. In lieu of removing an employee or volunteer named in a **Tier 1 Reportable Event other than alleged physical or sexual abuse** from any or all direct support to CHOICES and ECF CHOICES members, the provider may opt to utilize a modified assignment or increased supervision.

The provider is expected to ensure that adequate steps are taken for the protection and safety of all CHOICES and ECF CHOICES members during the investigation process.

### **Tier 2 Reportable Events:**

Tier 2 Reportable Events shall include the following when involving a person supported by ECF CHOICES services:

- Allegations that provider personnel (employees, volunteers) engaged in disrespectful or inappropriate communication about a person [e.g., humiliation, harassment, threats of punishment or deprivation, intimidation or demeaning or derogatory communication (vocal, written, gestures)], or any other similar acts that do not meet the definition of emotional or psychological abuse, and **which are directed to or within eyesight or audible range of the person supported.**
- Person whose whereabouts are unknown and could likely place him/her in a dangerous situation for self or others. This event is reportable if the whereabouts of the member are unknown for 60 minutes or more if the absence is unusual, unless a shorter time is specified in the person's PCSP or Behavior Support Plan (BSP), or the absence is a known risk as specified in the person's PCSP or the BSP. Reporting that a member's whereabouts are unknown is in addition to, and not a substitute for or priority over, actively looking for the member and contacting law enforcement if necessary. NOTE: This requirement should not result in persons supported not having freedom to come and go without staff supervision, except when such restrictions are necessary and are documented in the PCSP in accordance with the federal HCBS rule.
- Minor vehicle accident not resulting in injury that requires face-to-face medical treatment by someone other than a lay person
- Victim of fire
- Medication variance resulting in the need for observation, which may include the need to seek practitioner care or advice, but does not require face-to-face medical treatment (including treatment by provider's trained medical staff, physician services, emergency assistance or transfer to an acute inpatient facility for stabilization) because there is no injury or probable risk of serious harm.
  - Variance involving:
    - Medication omission
    - Wrong drug
    - Wrong dose
    - Wrong person
    - Wrong time
    - Wrong rate
    - Wrong preparation
    - Wrong route of administration
- Unsafe environment (cleanliness/hazardous conditions not otherwise expected to normally exist in the environment)
- Use of manual restraint, mechanical restraint and/or protective equipment that has been approved for use in the person's PCSP or BSP, but used incorrectly or other than as intended. NOTE: Events determined to be completely outside of an approved PCSP or BSP or intentionally inappropriate or intentionally in violation of guidelines specified in the person's PCSP or BSP shall be considered Tier 1 and therefore, Tier 1 reporting requirements must be followed.
- The deliberate misplacement, exploitation, or wrongful, temporary or permanent use of belongings or money valued at less than \$500, i.e., less than the threshold for misappropriation.

### **Tier 2 Reportable Events: Reporting Requirement**

- The ECF CHOICES provider Incident Management Coordinator or designee will submit a written ECF Reportable Event Report Form **via data exchange** to both DIDD and MCO by **close of the next business day** after occurrence or discovery of occurrence.

- The MCO will be responsible for reviewing all Tier 2 Reportable Event Report Forms for completeness and for ensuring the Reportable Event has been appropriately identified as Tier 2. The MCO will provide written notification to the ECF CHOICES provider confirming the Tier 2 status of the Event. If the MCO determines that the Reportable Event needs to be reclassified, the MCO will amend the Reportable Event Report Form and follow the other appropriate requirements for the reclassified Reportable Event, as stated herein.

#### **Process for Investigation of Tier Two Reportable Events (including referral)**

- ECF CHOICES providers are responsible for conducting investigations of Tier 2 Reportable Events and submitting an investigation report for each Tier 2 Reportable Event to the MCO or MCOs that serve the involved ECF CHOICES member(s).
- An ECF CHOICES provider shall complete the investigation and submit to the MCO(s) a completed investigation report within 14 calendar days of the provider submitting the Tier 2 Reportable Event Form to the MCO.
  - In extenuating circumstances beyond the provider's control, an ECF CHOICES provider may request one seven (7) calendar day extension. The request must be made to the MCO at least 2 business days before the investigation report is due. If the request is granted, the investigation shall be completed and submitted to the MCO within 21 calendar days of the provider submitting the Tier 2 Reportable Event Form to the MCO of the Tier 2 Reportable Event.
- MCOs are responsible for reviewing Tier 2 Reportable Event investigation reports submitted by the ECF CHOICES provider and for any follow-up review determined to be needed.
- The MCO shall review the investigation report, and by no more than the 30<sup>th</sup> calendar day following the provider's original submission to the MCO of the Tier 2 Reportable Event Form, shall advise the provider if the investigation is accepted or if the MCO will conduct additional review.
  - If additional review is needed, the MCO shall complete such review in no more than 14 calendar days following the date the MCO advised the provider that the MCO intends to conduct additional review. The MCO may request from TennCare one seven (7) calendar day extension only upon extenuating circumstances beyond the MCO's control, and shall issue its findings to the provider no later than 30 calendar days following the MCO's receipt of the provider's investigation report, including any actions that will be taken by the MCO pertaining to the Reportable Event or the provider's investigation. This may include, but is not limited to, sanctions (e.g., a corrective action plan) and/or referral to the MCO's Quality Management Review Committee.
- The MCO must submit all reportable data, including actions taken, for Tier 2 Reportable Events to DIDD **via data exchange within 7 days** of notification to the provider for purposes of tracking and trending.
- If at any time during the Tier 2 Reportable Event review, the information obtained by the MCO supports a Tier 1 (rather than Tier 2) Critical Incident:
  - The MCO will **notify DIDD immediately** (Notification should be made to DIDD **by a phone call** to the appropriate hotline number in the corresponding region).
  - The MCO will amend the ECF Critical Incident Form and send any supporting documentation to DIDD **via data exchange** by the **close of next business day** after the determination that the Reportable Event should be classified as Tier 1.
  - The MCO will notify the provider **via data exchange** with amended ECF Reportable Event Form by the **close of next business day** after the determination that the Reportable Event should be classified as Tier 1.
  - DIDD required timelines for completing the investigation will begin the day DIDD receives the amended ECF Reportable Event Form and supporting documentation from the MCO.

#### **Tier 2 Reportable Events: Policy on Administrative Leave or Non-Direct Contact**

- ECF CHOICES providers shall determine, **at their discretion and in accordance with their agency's policy**, whether to remove an employee or volunteer named in a **Tier 2 Reportable Event** from any or all direct support to CHOICES and ECF CHOICES members until the provider has completed their investigation and, if the Reportable Event is determined to be a Critical Incident, until the completion of any corrective action (e.g., training) deemed appropriate. In lieu of removing an employee or volunteer named in a **Tier 2 Reportable Event** from any or all direct support to CHOICES and ECF CHOICES members, the provider may opt to utilize a modified assignment or increased supervision. The provider is expected to ensure that adequate steps are taken for the protection and safety of all CHOICES and ECF CHOICES members during the investigation process.

### **Tier 3 Reportable Medical and Behavioral Events**

Tier 3 Reportable Medical and Behavioral Events are only reported to the MCO (not to DIDD) on the Reportable Event Form.

#### **Tier 3 Reportable Medical Events include:**

- Deaths (other than those that are unexpected/unexplained)
- ER visits
- Any inpatient observation or admission (acute care, LTAC, or SNF/NF)
- Use of CPR or an automated external defibrillator (AED);
- Choking episode requiring physical intervention (e.g., use of abdominal thrust or Heimlich maneuver);
- Fall with injury (including minor or serious)
- Insect or animal bite requiring treatment by a medical professional
- Stage II and above pressure ulcer
- Staph infection
- Fecal impaction
- Severe dehydration requiring medical attention
- Seizure progressing to status epilepticus
- Pneumonia
- Severe allergic reaction requiring medical attention
- Victim of natural disaster (natural disasters affecting multiple individuals do not require multiple individual reports)

#### **Tier 3 Reportable Behavioral Events include:**

- Criminal conduct or incarceration
- Engagement of law enforcement
- Sexual aggression if not specifically being addressed through a BSP or if being addressed in BSP but instance of sexual aggression is considered new or unusual for the person
- Physical aggression if not being addressed through a BSP or if being addressed in BSP but instance of physical aggression is considered new or unusual for the person
- Injury to another person as a result of a behavioral incident of a person supported
- Suicide attempt
- Self-injurious behavior if not specifically being addressed through a BSP or if being addressed in BSP but instance of self-injurious behavior is considered new or unusual for the person
- Property destruction greater than \$100
- Swallowing inedible/harmful matter if not specifically being addressed through a BSP or if being addressed in BSP but instance of swallowing inedible/harmful matter is considered new or unusual for the person
- Behavioral crisis requiring protective equipment, manual or mechanical restraints, regardless of type or time used or approved by PCSP (all take-downs and prone restraints are prohibited)

- Behavioral crisis requiring PRN psychotropic medication
- Behavioral crisis requiring crisis intervention (i.e., call)
- Behavioral crisis requiring in-home stabilization (SOS participants only)
- Behavioral crisis requiring out-of-home therapeutic respite
- Psychiatric admission (or observation), including in acute care hospital

### **Tier 3 Reportable Events: Reporting Requirements**

- The ECF CHOICES provider Incident Management Coordinator or designee will submit a written ECF Tier 3 Reportable Event Report Form via data exchange to the MCO within **two business days** after occurrence or discovery of occurrence.
- The provider's supervisory staff (including clinical staff, as applicable) is also required to review the Event in order to determine and complete appropriate follow-up, which may include, as appropriate:
  - Follow up with the person's primary care provider (or behavioral health provider, as applicable) to provide information and determine any needed treatment adjustments
  - Follow up with the person's Support Coordinator regarding any needed adjustments in the PCSP
  - Targeted training or assistance for provider agency staff who support the person
- Reporting and review of a Tier 3 Reportable Event is secondary to any medical attention required by the person supported, which should be sought as appropriate and with the urgency appropriate for the circumstance. The Event, medical attention required, and any follow-up shall be documented in the person's record.

### **C. Tracking and Trending Reportable Events (Including Reportable Events that are Determined to be Critical Incidents) and Non-Reportable Events**

- Tracking and trending efforts by providers, MCOs and DIDD shall include determining which Reportable Events are Critical Incidents. A Reportable Event is classified as a Critical Incident when there is a determination that the ECF CHOICES provider and/or MCO could have and should have done something differently in order to prevent the Critical Incident or reduce the negative consequences of that Incident on the member and others involved.
- For Critical Incidents, it is **especially vital** to evaluate the nature, frequency and circumstances of these Incidents in order to determine how to prevent or reduce similar occurrences in the future, whenever possible. Such efforts may be targeted to an individual person supported, a particular service setting or location, a particular type of incident, and including for the MCO, a particular provider, or system-wide.
- **DIDD** will maintain a statewide system for tracking and trending data for **all Tier 1 and Tier 2 Reportable Events, including those Events classified as Critical Incidents.**
  - Trending may include the following views: system-wide, by program (HCBS waiver or ECF CHOICES), by provider type, by provider, by type of event and/or incident, by individual, or any other perspective determined to be beneficial for purposes of evaluation, remediation and system improvement.
  - All Tier 1 and Tier 2 Reportable Event and Critical Incident data shall be tracked and trended by DIDD on at least a quarterly basis.
- Both the **provider** and the **MCO** shall be responsible for tracking and trending **all Tier 3 Reportable Events, including those Events classified as Critical Incidents.**
- All Tier 1, Tier 2 and Tier 3 Reportable Events and Critical Incidents shall be tracked and trended by the MCO on at least a quarterly basis.
- All Tier 1, Tier 2, Tier 3 Reportable Event (including those classified as Critical Incidents), and Non-Reportable Events shall be tracked and trended by the ECF CHOICES provider on at least a quarterly basis.
- Trending will include summation of the nature, frequency, and circumstances of the Events and Incidents being tracked.

- MCOs, in collaboration with their providers, will evaluate the trended data and with regard to trended data for Critical Incidents in particular, will evaluate this data in order to determine how to prevent or reduce similar occurrences in the future.

#### D. Abuse Registry Process

- An ECF CHOICES employee or volunteer for whom **abuse, neglect or misappropriation of property** regarding a member in ECF CHOICES has been **substantiated** in a **Tier 1 investigation** will be considered for placement on the State Abuse Registry.
- Such considerations will be performed by DIDD's existing Abuse Registry Review Committee (ARRC). (TennCare is a participating member of the ARRC.)
- DIDD will notify the MCO when such consideration involves abuse, neglect or misappropriation of property for the MCO's ECF CHOICES member.
- An MCO representative will participate in the ARRC as appropriate.
- Recommendation for placement of an employee or volunteer on the abuse registry requires majority vote of all members of the ARRC.
- Minutes of ARRC meetings are maintained and will be provided to TennCare after each meeting.
- DIDD shall notify the MCO of all final administrative determinations regarding placement of an ECF CHOICES employee or volunteer on the abuse registry.

#### E. FEA Responsibilities

- FEA and provider staff must immediately report, after the occurrence or discovery of occurrence, all instances of suspected abuse, neglect, and exploitation of members who are adults in accordance with TCA 71-6-103 and suspected brutality, abuse, or neglect of members who are children in accordance with TCA 37-1-403 or TCA 37-1-605 as applicable.
- All Tier 1 and Tier 2 Reportable Events occurring during the provision of ECF CHOICES services or discovered or witnessed by a Fiscal Employer Agent (FEA) employee must be reported to the DIDD **and** the MCO **via data exchange** and copied to the Employer of Record within the required timeframe.

#### F. Reportable Events Reported by Member or a Member's Natural Supports

- All Tier 1 or Tier 2 Reportable Events reported to the DIDD or the MCO by: 1) Member 2) Caregiver, 3) Family Member, or 4) Citizen/Friend and having occurred during the provision of ECF CHOICES services will be documented by DIDD or the MCO, as applicable.
- The DIDD or MCO receiving the report will generate, **within one business day**, an ECF Reportable Event Form, if the reported occurrence is confirmed to be Tier 1 or Tier 2 Reportable Event.
- The entity receiving the report from the member or the member's natural support (either DIDD or MCO) will be responsible for submitting the completed ECF Reportable Event Form to the other entity.
- The provider's Incident Management Coordinator or designee will be notified, **via data exchange**, of the Reportable Event by close of the next business day after the DIDD or MCO received the report from the member or the member's natural support.
- DIDD, the MCO and the provider will follow the process for investigations based on the Tier that the Reportable Event falls into.